

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 600

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ASSAULT AND BATTERY; AMENDING SECTION 18-918, IDAHO CODE, TO REVISE PROVISIONS REGARDING PENALTIES; AMENDING SECTION 18-923, IDAHO CODE, TO PROVIDE FOR PENALTIES IN CERTAIN INSTANCES AND TO DEFINE TERMS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-918, Idaho Code, be, and the same is hereby amended to read as follows:

18-918. DOMESTIC VIOLENCE. (1) For the purpose of this section:
(a) "Household member" means a person who is a spouse, former spouse, or a person who has a child in common regardless of whether they have been married or a person with whom a person is cohabiting, whether or not they have married or have held themselves out to be husband or wife.
(b) "Traumatic injury" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force.
(2) (a) Any household member who in committing a battery, as defined in section 18-903, Idaho Code, inflicts a traumatic injury upon any other household member is guilty of a felony.
(b) A conviction of felony domestic battery is punishable by imprisonment in the state prison for a term not to exceed ten (10) years or by a fine not to exceed ten thousand dollars (\$10,000) or by both fine and imprisonment.
(3) (a) A household member who commits an assault, as defined in section 18-901, Idaho Code, against another household member which does not result in traumatic injury is guilty of a misdemeanor domestic assault.
(b) A household member who commits a battery, as defined in section 18-903, Idaho Code, against another household member which does not result in traumatic injury is guilty of a misdemeanor domestic battery.
(c) A first conviction under this subsection is punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment in a county jail not to exceed six (6) months, or both. Any person who pleads guilty to or is found guilty of a violation of this subsection who previously has pled guilty to or been found guilty of a violation of this subsection, or of any substantially conforming foreign criminal violation, notwithstanding the form of the judgment or withheld judgment, within ten (10) years of the first conviction, shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a term not to exceed one (1) year or by a fine not exceeding two thousand dollars (\$2,000) or by both fine and imprisonment. Any person who pleads guilty to or is found guilty of a violation of this subsection who previously has pled guilty to or been found guilty of two (2) violations of this

1 subsection, or of any substantially conforming foreign criminal viola-
2 tion or any combination thereof, notwithstanding the form of the judg-
3 ment or withheld judgment, within fifteen (15) years of the first con-
4 viction, shall be guilty of a felony and shall be punished by imprison-
5 ment in the state prison for a term not to exceed five (5) years or by a
6 fine not to exceed five thousand dollars (\$5,000) or by both fine and im-
7 prisonment.

8 (4) The maximum penalties provided in this section shall be doubled
9 where the act of domestic assault or battery for which the person is con-
10 victed or pleads guilty took place in the presence of a child. For purposes
11 of this section, "in the presence of a child" means in the physical presence
12 of a child or knowing that a child is present and may see or hear an act of
13 domestic assault or battery. For purposes of this section, "child" means a
14 person under sixteen (16) years of age.

15 (5) Notwithstanding any other provisions of this section, any person
16 who previously has pled guilty to or been found guilty of a felony violation
17 of the provisions of this section, attempted strangulation as provided in
18 section 18-923, Idaho Code, or ~~of~~ any substantially conforming foreign crim-
19 inal felony violation, notwithstanding the form of the judgment or withheld
20 judgment, and who, within fifteen (15) years, pleads guilty to or is found
21 guilty of any further violation of this section shall be guilty of a felony
22 and shall be punished by imprisonment in the state prison for a term not to
23 exceed ~~ten (10)~~ twenty (20) years or by a fine not to exceed ten thousand dol-
24 lars (\$10,000), or by both such fine and imprisonment.

25 (6) For the purposes of this section, a substantially conforming for-
26 eign criminal violation exists when a person has pled guilty to or been found
27 guilty of a violation of any federal law or law of another state, or any valid
28 county, city or town ordinance of another state, substantially conforming
29 with the provisions of this section. The determination of whether a foreign
30 criminal violation is substantially conforming is a question of law to be de-
31 termined by the court.

32 (7) (a) Any person who pleads guilty to or is found guilty of a viola-
33 tion of this section or attempted strangulation as provided in section
34 18-923, Idaho Code, shall undergo, at the person's own expense, an eval-
35 uation by a person, agency or organization approved by the court in ac-
36 cordance with paragraph (c) of this subsection to determine whether the
37 defendant should be required to obtain counseling or other appropriate
38 treatment. Such evaluation shall be completed prior to the sentencing
39 date if the court's list of approved evaluators, in accordance with
40 paragraph (c) of this subsection, contains evaluators who are able to
41 perform the evaluation prior to the sentencing dates. If the evaluation
42 recommends counseling or other treatment, the evaluation shall recom-
43 mend the type of counseling or treatment considered appropriate for the
44 defendant, together with the estimated costs thereof, and shall recom-
45 mend any other suitable alternative counseling or treatment programs,
46 together with the estimated costs thereof. The defendant shall request
47 that a copy of the completed evaluation be forwarded to the court. The
48 court shall take the evaluation into consideration in determining an
49 appropriate sentence. If a copy of the completed evaluation has not
50 been provided to the court, the court may proceed to sentence the defen-

1 dant; however, in such event, it shall be presumed that counseling is
2 required unless the defendant makes a showing by a preponderance of ev-
3 idence that counseling is not required. If the defendant has not made a
4 good faith effort to provide the completed copy of the evaluation to the
5 court, the court may consider the failure of the defendant to provide
6 the report as an aggravating circumstance in determining an appropri-
7 ate sentence. If counseling or other treatment is ordered, in no event
8 shall the person, agency or organization doing the evaluation be the
9 person, agency or organization that provides the counseling or other
10 treatment unless this requirement is waived by the sentencing court,
11 with the exception of federally recognized Indian tribes or federal
12 military installations, where diagnosis and treatment are appropriate
13 and available. Nothing herein contained shall preclude the use of funds
14 authorized for court-ordered counseling or treatment pursuant to this
15 section for indigent defendants as provided by law. In the event that
16 funding is provided for or on behalf of the defendant by a governmental
17 entity, the defendant shall be ordered to make restitution to such gov-
18 ernmental entity in accordance with the restitution procedure for crime
19 victims, as specified under chapter 53, title 19, Idaho Code.

20 (b) If the evaluation recommends counseling or other treatment, the
21 court shall order the person to complete the counseling or other treat-
22 ment in addition to any other sentence which may be imposed. If the
23 court determines that counseling or treatment would be inappropriate
24 or undesirable, the court shall enter findings articulating the rea-
25 sons for such determination on the record. The court shall order the
26 defendant to complete the preferred counseling or treatment program
27 set forth in the evaluation, or a comparable alternative, unless it
28 appears that the defendant cannot reasonably obtain adequate financial
29 resources for such counseling or treatment. In that event, the court
30 may order the defendant to complete a less costly alternative set forth
31 in the evaluation or a comparable program. Nothing contained in this
32 subsection shall be construed as requiring a court to order that coun-
33 seling or treatment be provided at government expense unless otherwise
34 required by law.

35 (c) The supreme court shall by rule establish a uniform system for the
36 qualification and approval of persons, agencies or organizations to
37 perform the evaluations required in this subsection. Only qualified
38 evaluators approved by the court shall be authorized to perform such
39 evaluations. Funds to establish a system for approval of evaluators
40 shall be derived from moneys designated therefor and deposited in the
41 district court fund as provided in section 31-3201A(16), Idaho Code.

42 (d) Counseling or treatment ordered pursuant to this section shall be
43 conducted according to standards established or approved by the Idaho
44 council on domestic violence and victim assistance.

45 SECTION 2. That Section 18-923, Idaho Code, be, and the same is hereby
46 amended to read as follows:

47 18-923. ATTEMPTED STRANGULATION. (1) Any person who willfully and un-
48 lawfully chokes or attempts to strangle a household member, or a person with

1 whom he or she has or had a dating relationship, is guilty of a felony punish-
2 able by incarceration for up to fifteen (15) years in the state prison.

3 (2) No injuries are required to prove attempted strangulation.

4 (3) The prosecution is not required to show that the defendant intended
5 to kill or injure the victim. The only intent required is the intent to choke
6 or attempt to strangle.

7 (4) "Household member" assumes the same definition as set forth in sec-
8 tion 18-918(1)(a), Idaho Code.

9 (5) "Dating relationship" assumes the same definition as set forth in
10 section 39-6303(2), Idaho Code.

11 (6) Any person who pleads guilty to or is found guilty of a violation of
12 this section shall undergo an evaluation, counseling and other treatment as
13 provided in section 18-918(7), Idaho Code.

14 (7) Notwithstanding any other provisions of this section, any person
15 who previously has pled guilty to or been found guilty of a violation of the
16 provisions of this section, a felony violation for domestic violence as pro-
17 vided in section 18-918, Idaho Code, or any substantially conforming for-
18 foreign criminal felony violation, notwithstanding the form of the judgment or
19 withheld judgment, and who, within fifteen (15) years, pleads guilty to or
20 is found guilty of any further violation of this section shall be guilty of
21 a felony and shall be punished by imprisonment in the state prison for a term
22 not to exceed twenty (20) years or by a fine not to exceed ten thousand dol-
23 lars (\$10,000), or by both such fine and imprisonment.

24 (8) The maximum penalties provided in this section shall be doubled
25 where the act for which the person is convicted or pleads guilty took place
26 in the presence of a child. For purposes of this section, "in the presence
27 of a child" means in the physical presence of a child or knowing that a child
28 is present and may see or hear an act of domestic assault or battery. For
29 purposes of this section, "child" means a person under sixteen (16) years of
30 age.

31 (9) For the purposes of this section, a substantially conforming for-
32 foreign criminal violation exists when a person has pled guilty to or been found
33 guilty of a violation of any federal law or law of another state, or any valid
34 county, city, or town ordinance of another state that substantially conforms
35 with the provisions of this section. The determination of whether a foreign
36 criminal violation is substantially conforming is a question of law to be de-
37 termined by the court.

38 SECTION 3. An emergency existing therefor, which emergency is hereby
39 declared to exist, this act shall be in full force and effect on and after
40 July 1, 2024.