

In the Supreme Court of the State of Idaho

IN RE: CRIMINAL JURY)

INSTRUCTIONS)

ORDER

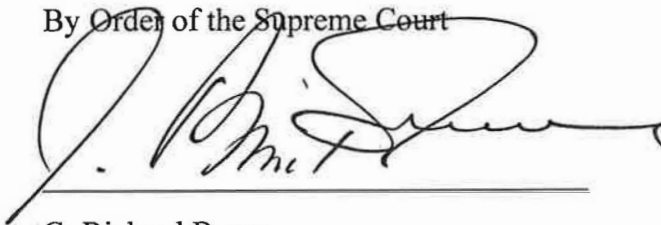
The Idaho Supreme Court, having reviewed recommendations of the Idaho Criminal Jury Instructions Committee, and having reviewed revisions of the Idaho Criminal Jury Instructions based upon those recommendations,

NOW, THEREFORE, IT IS ORDERED that the Court accepts revisions to Idaho Criminal Jury Instructions 938 (Prostitution), 940 (Patronizing a Prostitute), 942A (Prostitution – Special Verdict), 942B (Patronizing – Special Verdict), 943 (Interstate Trafficking in Prostitution), 944 (Procurement), 945 (Receiving Pay for Procurement), 946 (Paying for Procurement), 947 (Accepting Earnings of a Prostitute), 949 (Maintaining (Harboring) a House of Prostitution), 950 (Inducing a Minor into Prostitution), 952 (Admitting a Minor into House of Prostitution), and 1033 (Eluding a Peace Officer). The revised Idaho Criminal Jury Instructions shall be disseminated for general use by the trial bench and bar in Idaho, to be effective immediately. It is recommended that whenever these revised Idaho Criminal Jury Instructions contain an instruction applicable to a case and the trial judge determines that the jury should be instructed on that subject, the judge should use the instruction contained in the revised Idaho Criminal Jury Instructions, unless the judge finds that a different instruction would more adequately, accurately or clearly state the law.

IT IS FURTHER ORDERED that notice of this Order shall be published for three consecutive weeks on the Idaho State Bar's website and in its weekly e-Bulletin, and that, as soon as practicable, a summary of the amendments effected by this Order shall be published in one issue of *The Advocate*.

DATED this 24th day of August, 2026.

By Order of the Supreme Court



G. Richard Bevan
Chief Justice

ATTEST:


Melanie Gagnepain

I, Melanie Gagnepain, Clerk of the Supreme Court/
Court of Appeals of the State of Idaho, do hereby
Certify that the above is a true and correct copy of the
order entered in the above entitled
cause and now on record in my office. WITNESS my
hand and the Seal of this Court 8-24-2026
Melanie Gagnepain, Clerk

By  Deputy

ICJI 938 PROSTITUTION PROVIDING COMMERCIAL SEXUAL ACTIVITY

INSTRUCTION NO.

In order for the defendant to be guilty of ~~Prostitution~~Providing Commercial Sexual Activity, the Sstate must prove each of the following:

1. On or about [date]
2. in the state of Idaho
- [3. the defendant [name] [engaged in] [or] [offered or agreed to engage in] ~~[sexual conduct]~~
~~{or}~~ [sexual contact] with another person, and
4. the defendant [was to] [or] [did] receive a fee for engaging in such ~~[sexual conduct]~~ ~~{or}~~
~~[sexual contact].~~]

[or]

~~[3. the defendant [name] engaged in [sexual conduct] [or] [sexual contact] with another person,~~

~~_____ 4. the defendant received or was to receive a fee for engaging in such [sexual conduct] [or] [sexual contact], and~~

~~_____ 5. the defendant engaged in such [sexual conduct] [or] [sexual contact] in or through the agency of a house of prostitution.]~~

~~{or}~~

~~[3. the defendant [name] loitered in or within view of any place to which the public or a substantial group of the public had access,~~

~~4. the defendant loitered in or within view of such place any public place for the purpose of being hired to engage in ~~sexual conduct or sexual contact.~~]~~

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Comment

I.C. § 18-5613.

A third or subsequent conviction for providing commercial sexual activity ~~prostitution~~ is a felony. I.C. § 18-5613(2). If so charged, see ICJI 942A.

**ICJI 940 ~~PATRONIZING A PROSTITUTE~~ SOLICITING COMMERCIAL SEXUAL
ACTIVITY**

INSTRUCTION NO.

In order for the defendant to be guilty of ~~Patronizing a Prostitute~~Soliciting Commercial Sexual Activity, the Sstate must prove each of the following:

1. On or about [date]
2. in the state of Idaho
- [3. the defendant [name] [paid or offered or agreed to pay a fee to another person] ~~[or] [the defendant entered or remained in a house of prostitution]~~

4. for the purpose of engaging in an act of sexual conduct or sexual contact]

[or]

[3. the defendant [name] offered a third person to engage in, or agreed to provide a third person to engage in, sexual contact in return for a fee].

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Comment

I.C. § 18-5614.

**ICJI 942A PROSTITUTION~~PROVIDING COMMERCIAL SEXUAL ACTIVITY~~—
SPECIAL VERDICT**

INSTRUCTION NO.

In this portion of the case you will return a verdict, consisting of a [series of] question[s] you should answer. Since the explanations on the form which you will have are part of my instructions to you, I will read the body of the verdict form to you.

"We, the Jury, duly impaneled and sworn to try the above entitled action, unanimously answer the question(s) submitted to us as follows:

QUESTION NO. 1: [Did the defendant plead guilty to] [or] [was the defendant found guilty of] a violation of I.C. § 18-5613, [Providing Commercial Sexual Activity]~~[Prostitution]~~, in [name of county], Idaho, Case No. ____?

ANSWER: YES ____ **NO** ____

QUESTION NO. 2: [Did the defendant plead guilty to] [or] [was the defendant found guilty of] a violation of I.C. § 18-5613, [Providing Commercial Sexual Activity]~~[Prostitution]~~, in [name of county], Idaho, Case No. ____?

ANSWER: YES ____ **NO** ____]

[QUESTION NO. 3: (Add other prior offenses)

ANSWER: YES ____ **NO** ____]

Once you have answered the questions, your presiding juror should date and sign the verdict form and advise the bailiff that you have reached a verdict.

Comment

See ICJI 224 for verdict form.

ICJI 942B ~~PATRONIZING~~SOLICITING—SPECIAL VERDICT

**SOLICITING COMMERCIAL SEXUAL ACTIVITY~~PATRONIZING A PROSTITUTE,~~
SPECIAL VERDICT INSTRUCTION—ENHANCEMENT**

INSTRUCTION NO.

In this portion of the case you will return a verdict, consisting of a [series of] question[s] you should answer. Since the explanations on the form which you will have are part of my instructions to you, I will read the body of the verdict form to you.

"We, the Jury, duly impaneled and sworn to try the above entitled action, unanimously answer the question(s) submitted to us as follows:

QUESTION NO. 1: [Did the defendant plead guilty to] [or] [was the defendant found guilty of] a violation of I.C. § 18–5614, [Soliciting Commercial Sexual Activity][~~Patronizing a Prostitute~~], in [name of county], Idaho, Case No. ____?

ANSWER: YES ____ NO ____

QUESTION NO. 2: [Did the defendant plead guilty to] [or] [was the defendant found guilty of] a violation of I.C. § 18–5614, [Soliciting Commercial Sexual Activity][~~Patronizing a Prostitute~~], in [name of county], Idaho, Case No. ____?

ANSWER: YES ____ NO ____]

[QUESTION NO. 3: (Add other prior offenses)

ANSWER: YES ____ NO ____]

Once you have answered the questions, your presiding juror should date and sign the verdict form and advise the bailiff that you have reached a verdict.

Comment

See ICJI 224 for verdict form.

**ICJI 943 INTERSTATE TRAFFICKING IN ~~PROSTITUTION~~ COMMERCIAL SEXUAL
ACTIVITY**

INSTRUCTION NO.

In order for the defendant to be guilty of Interstate Trafficking in Commercial Sexual Activity~~Prostitution~~, the State must prove each of the following:

1. On or about [date]
2. in the state of Idaho
3. the defendant [name] [imported] [exported] [induced] [enticed] [or] [procured] a person to come into or to leave the state of Idaho, and
4. the defendant did such act for the purpose of having such person engage in ~~prostitution~~commercial sexual activity, and
5. the defendant knew that such person came into or left the state of Idaho for the purpose of engaging in commercial sexual activity~~prostitution~~.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Comment

I.C. § 18-5607~~4~~.

ICJI 944 PROCUREMENT

INSTRUCTION NO.

In order for the defendant to be guilty of Procurement, the Sstate must prove each of the following:

1. On or about [date]
2. in the state of Idaho
3. [the defendant [name] [compelled] [induced], [enticed], [procured] [a person] [name of person] to engage in ~~acts as a prostitute~~ commercial sexual activity.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Comment

I.C. § 18-5602.

ICJI 945 RECEIVING PAY FOR PROCUREMENT

INSTRUCTION NO.

In order for the defendant to be guilty of Receiving Pay for Procurement, the Sstate must prove each of the following:

1. On or about [date]
2. in the state of Idaho
3. the defendant [name] knowingly received ~~money or any object of value~~ a fee, and
4. such ~~money or object of value~~ fee was received by the defendant to procure a ~~prostitute~~ third person to engage in commercial sexual activity.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Comment

I.C. § 18–5603.

ICJI 946 PAYING FOR PROCUREMENT

INSTRUCTION NO.

In order for the defendant to be guilty of Paying for Procurement, the State must prove each of the following:

1. On or about [date]
2. in the state of Idaho
3. the defendant [name] paid ~~money or an object of value~~ a fee, and
4. ~~such payment~~ of such fee was made to procure [a person] [name of person] for the purpose of engaging in acts of ~~prostitution~~ commercial sexual activity.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Comment

I.C. § 18-5604.

**ICJI 947 ~~ACCEPTING-RECEIVING EARNINGS PROCEEDS OF A~~
~~PROSTITUTE~~ILLEGAL SEXUAL ACTIVITY**

INSTRUCTION NO.

In order for the defendant to be guilty of ~~Accepting-Receiving Earnings Proceeds~~ of a ~~Prostitute~~Illegal Sexual Activity, the Sstate must prove each of the following:

1. On or about [date]
2. in the state of Idaho
3. the defendant [name] knowingly received or accepted proceeds, or the benefits of such proceeds, derived from another person engaging in sexual contact, and ~~[another person] [one or more other persons] [name of person(s)]~~ entered into an agreement to carry out a single business enterprise involving one or more transactions for profit;
—— 4. the business enterprise involved prostitution;
- 5. the defendant knew that the business enterprise involved prostitution, and
- 6. the defendant knowingly accepted, or appropriated money or item of value from such business enterprise.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Comment

I.C. § 18-5606.

**ICJI 949 MAINTAINING ~~(HARBORING)~~ A HOUSE OF PROSTITUTION PLACE OF
COMMERCIAL SEXUAL ACTIVITY**

INSTRUCTION NO.

In order for the defendant to be guilty of Maintaining a ~~House of Prostitution~~ Place of Sexual Commercial Activity, the sState must prove each of the following:

1. On or about [date]
2. in the state of Idaho
3. the defendant [name] [maintained] [controlled] [supported] a house used for the purpose of prostitutionplace where commercial sexual activity is carried on by one (1) or more persons under the control, management, or supervision of another.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Comment

I.C. § 18–5608.

**ICJI 950 INDUCING A CHILD MINOR INTO PROSTITUTIONCOMMERCIAL
SEXUAL ACTIVITY**

INSTRUCTION NO.

In order for the defendant to be guilty of Inducing a ~~Minor~~Child into ~~Prostitution~~Commercial Sexual Activity, the Sstate must prove each of the following:

1. On or about [date]
2. in the state of Idaho
3. the defendant [name] [induced] [attempted to induce] ~~[a person]~~ [name of person] to engage in ~~prostitution~~commercial sexual activity while ~~[such person]~~ [name of person] was under the age of eighteen (18) years.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Comment

I.C. § 18-5609.

**ICJI 952 INDUCING A CHILD TO ENGAGE IN COMMERCIAL SEXUAL ACTIVITY -
PENALTIES ADMITTING A MINOR INTO HOUSE OF PROSTITUTION**

INSTRUCTION NO.

In order for the defendant to be guilty of Inducing a Child to Engage in Commercial Sexual Activity ~~Admitting a Minor into a House of Prostitution~~, the State must prove each of the following:

1. On or about [date]
2. in the state of Idaho
3. the defendant [name] induced, or attempted to induce, a child [name or initials of person] to patronize a third person in commercial sexual activity; was the proprietor, keeper, manager, conductor, or person having the control of a [house] [room] used for prostitution, and while [name of person] was under the age of eighteen [18] years.
- ~~4. the defendant admitted or kept a person under eighteen years of age in such [house] [room].~~

{or}

- ~~3. the defendant [name] was the [father] [mother] of a child who was under eighteen years of age;~~
- ~~4. such child was admitted or kept in a [house] [room] used for prostitution, and~~
- ~~5. the defendant [admitted or kept] [or] [consented to the admission or keeping of] such child in such [house] [room].~~

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Comment

I.C. § 18-5611.

ICJI 1033 ELUDING A PEACE OFFICER

INSTRUCTION NO.

In order for the defendant to be guilty of Eluding a Peace Officer, the Sstate must prove each of the following:

1. On or about [date]
2. in the state of Idaho,
3. while driving a motor vehicle,
4. the defendant [name] willfully fled or attempted to elude
5. a pursuing police vehicle
6. when a peace officer had given the defendant a visual or audible signal to bring the defendant's vehicle to a stop, ~~and~~.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

[The signal to stop must be given by emergency lights or siren which a reasonable person knew or should have known was intended to bring the pursued vehicle to a stop.]

Comment

I.C. § 49-1404(1). The statute expressly provides that the emergency lights or siren need not conform to the standards for decibel ratings or light visibility specified in section 49-623(3).

The signal to stop must be given by emergency lights or siren. *State v. Bedard*, 120 Idaho 869, 820 P.2d 1226 (1991). Give bracketed language if applicable.