
 ⑆⑆⑆ LEGISLATURE OF THE STATE OF IDAHO ⑆⑆⑆
 Sixty-fifth Legislature First Regular Session - 2019

IN THE _____

BILL NO. _____

BY _____

AN ACT

RELATING TO RECORDS EXEMPT FROM DISCLOSURE; AMENDING SECTION 74-105, IDAHO CODE, TO PROVIDE THAT CERTAIN RECORDS REGARDING THE DEATH PENALTY SHALL BE EXEMPT FROM DISCLOSURE AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 74-105, Idaho Code, be, and the same is hereby amended to read as follows:

74-105. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS, INVESTIGATORY RECORDS OF AGENCIES, EVACUATION AND EMERGENCY RESPONSE PLANS, WORKER'S COMPENSATION. The following records are exempt from disclosure:

(1) Investigatory records of a law enforcement agency, as defined in section 74-101(7), Idaho Code, under the conditions set forth in section 74-124, Idaho Code.

(2) Juvenile records of a person maintained pursuant to chapter 5, title 20, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the juvenile who is thirteen (13) years of age or younger. If the juvenile is petitioned or charged with an offense which would be a criminal offense if committed by an adult, the name, offense of which the juvenile was petitioned or charged and disposition of the court shall be subject to disclosure as provided in section 20-525, Idaho Code. Additionally, facts contained in any records of a juvenile maintained under chapter 5, title 20, Idaho Code, shall be furnished upon request to any school district where the juvenile is enrolled or is seeking enrollment.

(3) Records of the custody review board of the Idaho department of juvenile corrections, including records containing the names, addresses and written statements of victims and family members of juveniles, shall be exempt from public disclosure pursuant to section 20-533A, Idaho Code.

(4) (a) The following records of the department of correction:

(i) Records of which the public interest in confidentiality, public safety, security and habilitation clearly outweighs the public interest in disclosure as identified pursuant to the authority of the Idaho board of correction under section 20-212, Idaho Code;

(ii) Records that contain any identifying information, or any information that would lead to the identification of any victims or witnesses;

(iii) Records that reflect future transportation or movement of a prisoner;

(iv) Records gathered during the course of the presentence investigation;

1 (v) Records of a prisoner, as defined in section 74-101(10),
2 Idaho Code, or probationer shall not be disclosed to any other
3 prisoner or probationer.

4 (b) Records, other than public expenditure records, related to pro-
5 posed or existing critical infrastructure held by or in the custody
6 of any public agency only when the disclosure of such information is
7 reasonably likely to jeopardize the safety of persons, property or the
8 public safety. Such records may include emergency evacuation, escape
9 or other emergency response plans, vulnerability assessments, oper-
10 ation and security manuals, plans, blueprints or security codes. For
11 purposes of this ~~section~~ paragraph, "system" includes electrical,
12 computer and telecommunication systems, electric power (including pro-
13 duction, generating, transportation, transmission and distribution),
14 heating, ventilation, and air conditioning. For purposes of this sub-
15 section, "critical infrastructure" means any system or asset, whether
16 physical or virtual, so vital to the state of Idaho, including its po-
17 litical subdivisions, that the incapacity or destruction of such system
18 or asset would have a debilitating impact on state or national economic
19 security, state or national public health or safety or any combination
20 of those matters.

21 (c) Records of the commission of pardons and parole shall be exempt from
22 public disclosure pursuant to section 20-213A, Idaho Code, and section
23 20-223, Idaho Code. Records exempt from disclosure shall also include
24 those containing the names, addresses and written statements of vic-
25 tims.

26 (5) Voting records of the sexual offender ~~classification~~ management
27 board. The written record of the vote to classify an offender as a violent
28 sexual predator by each board member in each case reviewed by that board mem-
29 ber shall be exempt from disclosure to the public and shall be made available
30 upon request only to the governor, the chairman of the senate judiciary and
31 rules committee, and the chairman of the house of representatives judiciary,
32 rules and administration committee, for all lawful purposes.

33 (6) Records of the sheriff or Idaho state police received or maintained
34 pursuant to sections 18-3302, 18-3302H and 18-3302K, Idaho Code, relating
35 to an applicant or licensee except that any law enforcement officer and law
36 enforcement agency, whether inside or outside the state of Idaho, may access
37 information maintained in the license record system as set forth in section
38 18-3302K(16), Idaho Code.

39 (7) Records of investigations prepared by the department of health and
40 welfare pursuant to its statutory responsibilities dealing with the protec-
41 tion of children, the rehabilitation of youth, adoptions and the commitment
42 of mentally ill persons. For reasons of health and safety, best interests of
43 the child or public interest, the department of health and welfare may pro-
44 vide for the disclosure of records of investigations associated with actions
45 pursuant to the provisions of chapter 16, title 16, Idaho Code, prepared by
46 the department of health and welfare pursuant to its statutory responsibili-
47 ties dealing with the protection of children except any such records regard-
48 ing adoptions shall remain exempt from disclosure.

49 (8) Records including, but not limited to, investigative reports,
50 resulting from investigations conducted into complaints of discrimination

1 made to the Idaho human rights commission unless the public interest in
2 allowing inspection and copying of such records outweighs the legitimate
3 public or private interest in maintaining confidentiality of such records.
4 A person may inspect and copy documents from an investigative file to which
5 he or she is a named party if such documents are not otherwise prohibited from
6 disclosure by federal law or regulation or state law. The confidentiality of
7 this subsection will no longer apply to any record used in any judicial pro-
8 ceeding brought by a named party to the complaint or investigation, or by the
9 Idaho human rights commission, relating to the complaint of discrimination.

10 (9) Records containing information obtained by the manager of the Idaho
11 state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on
12 behalf of employers or employees contained in underwriting and claims for
13 benefits files.

14 (10) The worker's compensation records of the Idaho industrial commis-
15 sion provided that the industrial commission shall make such records avail-
16 able:

17 (a) To the parties in any worker's compensation claim and to the indus-
18 trial special indemnity fund of the state of Idaho; or

19 (b) To employers and prospective employers subject to the provisions of
20 the Americans with disabilities act, 42 U.S.C. 12112, or other statu-
21 tory limitations, who certify that the information is being requested
22 with respect to a worker to whom the employer has extended an offer of
23 employment and will be used in accordance with the provisions of the
24 Americans with disabilities act, 42 U.S.C. 12112, or other statutory
25 limitations; or

26 (c) To employers and prospective employers not subject to the provi-
27 sions of the Americans with disabilities act, 42 U.S.C. 12112, or other
28 statutory limitations, provided the employer presents a written autho-
29 rization from the person to whom the records pertain; or

30 (d) To others who demonstrate that the public interest in allowing in-
31 spection and copying of such records outweighs the public or private in-
32 terest in maintaining the confidentiality of such records, as deter-
33 mined by a civil court of competent jurisdiction; or

34 (e) Although a claimant's records maintained by the industrial commis-
35 sion, including medical and rehabilitation records, are otherwise ex-
36 empt from public disclosure, the quoting or discussing of medical or re-
37 habilitation records contained in the industrial commission's records
38 during a hearing for compensation or in a written decision issued by the
39 industrial commission shall be permitted; provided further, the true
40 identification of the parties shall not be exempt from public disclo-
41 sure in any written decision issued and released to the public by the in-
42 dustrial commission.

43 (11) Records of investigations compiled by the commission on aging in-
44 volving vulnerable adults, as defined in section 18-1505, Idaho Code, al-
45 leged to be abused, neglected or exploited.

46 (12) Criminal history records and fingerprints, as defined by in sec-
47 tion 67-3001, Idaho Code, and compiled by the Idaho state police. Such
48 records shall be released only in accordance with chapter 30, title 67, Idaho
49 Code.

1 (13) Records furnished or obtained pursuant to section 41-1019, Idaho
2 Code, regarding termination of an appointment, employment, contract or
3 other insurance business relationship between an insurer and a producer.

4 (14) Records of a prisoner or former prisoner in the custody of any state
5 or local correctional facility, when the request is made by another prisoner
6 in the custody of any state or local correctional facility.

7 (15) Except as provided in section 72-1007, Idaho Code, records of the
8 Idaho industrial commission relating to compensation for crime victims un-
9 der chapter 10, title 72, Idaho Code.

10 (16) Records or information identifying a complainant maintained by the
11 department of health and welfare pursuant to section 39-3556, Idaho Code,
12 relating to certified family homes, unless the complainant consents in writ-
13 ing to the disclosure or the disclosure of the complainant's identity is re-
14 quired in any administrative or judicial proceeding.

15 (17) Records of any certification or notification required by federal
16 law to be made in connection with the acquisition or transfer of a firearm,
17 including a firearm as defined in 26 U.S.C. 5845(a).

18 (18) Records related to the administration of the extraordinary lit-
19 igation fund by the state public defense commission, pursuant to section
20 19-850(2)(e), Idaho Code, to the extent that such records contain informa-
21 tion protected by, or exempted from disclosure by, or under rules adopted by
22 the Idaho supreme court, attorney work product or as attorney-client priv-
23 ileged communication. This exemption does not include the amount awarded
24 based upon an application for extraordinary litigation funds.

25 (19) Records related to the infliction of the death penalty pursuant to
26 chapter 27, title 19, Idaho Code, including:

27 (a) Records that could lead to the identification of the on-site physi-
28 cian or members of the escort and medical teams;

29 (b) Records that could lead to the identification of any pharmacy, pre-
30 scriber, manufacturer, wholesale distributor, compounder, or other en-
31 tity that supplies any chemicals, substances, equipment, materials, or
32 other services to the department of correction;

33 (c) Records that could lead to the identification of members of the vic-
34 tim's family or individuals approved to visit the prisoner after the is-
35 suance of the death warrant; and

36 (d) Records that contain security protocols, operational plans,
37 or other information where the disclosure of such information could
38 jeopardize the department of correction's ability to carry out an ex-
39 ecution.