

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 382, As Amended in the Senate

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

1 RELATING TO VETERINARIANS; AMENDING SECTION 54-2118, IDAHO CODE, TO REVISE
2 PROVISIONS REGARDING ALTERNATIVES TO FORMAL DISCIPLINE, TO REVISE PRO-
3 VISIONS REGARDING WHO MAY NOT BE OFFERED AN ALTERNATIVE TO FORMAL DIS-
4 CIPLINE AND TO PROVIDE THAT A PERSON WHO RECEIVES AN ALTERNATIVE TO FOR-
5 MAL DISCIPLINE MAY BE SUBJECT TO CERTAIN CONDITIONS; AND AMENDING SEC-
6 TION 74-106, IDAHO CODE, TO REMOVE REFERENCE TO CONTINUING EDUCATION
7 AND RECORDKEEPING AND TO PROVIDE FOR ALTERNATIVES TO DISCIPLINE.
8

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

10 SECTION 1. That Section 54-2118, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 54-2118. VIOLATIONS OF CHAPTER -- REMEDIES AND PENALTIES. In addition
13 to the disciplinary actions set forth in section 54-2115, Idaho Code:

14 (1) Administrative actions.

15 (a) Any person violating the provisions of this chapter, or violating a
16 rule promulgated by the board to implement the provisions of this chap-
17 ter may be fined by the board or its duly authorized agent not more than
18 five thousand dollars (\$5,000) for each offense and shall be liable for
19 investigatory expenses and reasonable paralegal and attorney's fees,
20 and provided that each act on each day of violation shall constitute
21 a separate offense. Imposition of a fine may be made in conjunction
22 with any other board administrative action. No fine may be assessed
23 unless the person charged was given notice and opportunity for a hearing
24 pursuant to the Idaho administrative procedure act. If a person fined
25 fails to fully pay the fine, investigatory expenses or reasonable para-
26 legal and attorney's fees, the board may recover such amount by action
27 in the appropriate district court.

28 ~~(b) Notwithstanding the provisions of subsection (1) (a) of this sec-~~
29 ~~tion, any person who has violated the recordkeeping or continuing~~
30 ~~education requirements imposed by this chapter or the rules of t~~
31 ~~board may, in lieu of establish alternatives to formal disciplinary~~
32 ~~proceedings under action for violations of this chapter or the Idaho ad-~~
33 ~~ministrative procedure act, elect to pay the board a civil penalty to be~~
34 ~~determined by the board, or its authorized agent, in an amount between~~
35 ~~five hundred dollars (\$500) and one thousand dollars (\$1,000), under~~
36 ~~the following terms and conditions rules that may include a practice~~
37 ~~remediation program to educate and remediate licensees and certificate~~
38 ~~holders as a result of practice deficiencies. An alternative to formal~~
39 ~~discipline may be offered by the board's liaison officer to a licensee~~
40 ~~or certificate holder when the officer has determined, in his sound dis-~~
41 ~~cretion, after consultation with and approval of the board president or~~
42 ~~vice president if the president is unavailable, that animal and public~~

1 safety will not be compromised and the violation can most appropriately
 2 be resolved without formal discipline. To further the purposes of an
 3 alternative to discipline, it will be offered only by or through the
 4 liaison officer and, unless the person violates its terms, the full
 5 board will not be informed of the alternative to discipline or have to
 6 expressly approve its terms. An alternative to formal discipline shall
 7 not be available and may not be offered by the liaison officer in any of
 8 the following circumstances:

9 (i) Within the preceding five (5) years, ~~t~~The person must not have
 10 has been formally disciplined by the board for any reason within
 11 the past five (5) years or been the subject of an alternative to
 12 discipline under this subsection;

13 (ii) The person must not have previously elected to pay a penalty
 14 under this section;

15 ~~(iii)~~ The person is not currently on probation by the board;

16 ~~(iviii)~~ The person is not currently under investigation by the
 17 board for an any other offense other than the recordkeeping or con-
 18 tinuing education violation; and

19 ~~(vii)~~ The Felony charges are pending against the person must
 20 fully comply with the board's instructions on remedying the
 21 recordkeeping or continuing education violation, or the person
 22 is the subject of a current criminal investigation involving al-
 23 legations that, if verified, may reasonably be expected to affect
 24 the person's qualifications or eligibility to remain licensed or
 25 certified under this chapter; or

26 (v) The act or omission committed by the person:

27 1. Caused significant harm to an animal;

28 2. Created a substantial risk likely to cause significant
 29 harm to an animal; or

30 3. Involved fraud or deception.

31 Among other terms and conditions, an alternative to formal discipline
 32 may require the licensee or certificate holder to comply with the in-
 33 structions of the board's liaison officer on remedying the violation,
 34 pay a monetary civil penalty to the board of up to one thousand dollars
 35 (\$1,000) and pay all board investigative expenses and costs associated
 36 with the file.

37 Upon successful completion of the above terms and conditions and pay-
 38 ment of the civil penalty alternative to discipline, the violation
 39 shall not be considered "discipline," shall not be reported to any na-
 40 tional disciplinary database, and documents and records related to the
 41 violation shall be exempt from disclosure under chapter 1, title 74,
 42 Idaho Code.

43 (2) Civil court proceedings. The board, the attorney general's of-
 44 fice, a county prosecuting attorney or any citizen of this state may bring an
 45 action in the district court of either Ada county or any county where a viola-
 46 tion is occurring, to enjoin any person from practicing veterinary medicine
 47 or practicing as a certified veterinary technician, certified euthanasia
 48 technician or any agency operating as a certified euthanasia agency without
 49 a currently valid, active license, certification, temporary permit or tem-
 50 porary certification. If the court finds that the person is violating the

1 provisions of this chapter, it shall enter an injunction restraining that
2 person from such unlawful acts.

3 (3) Criminal actions. Any person who practices veterinary medicine,
4 any person practicing as a certified veterinary technician, a certified eu-
5 thanasia technician or any agency operating as a certified euthanasia agency
6 without a currently valid, active license, certification, temporary permit
7 or temporary certification shall be guilty of a misdemeanor and upon convic-
8 tion or withheld judgment shall be fined not less than one hundred dollars
9 (\$100), nor more than ten thousand dollars (\$10,000), or incarcerated for no
10 more than one hundred eighty (180) days, or both fined and incarcerated, and
11 provided that each act of such unlawful practice shall constitute a distinct
12 and separate offense.

13 (4) The remedies set forth in this section are not mutually exclusive
14 and a successful action on any one (1) remedy does not preclude action on some
15 or all of the other remedies.

16 SECTION 2. That Section 74-106, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 74-106. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PER-
19 SONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following
20 records are exempt from disclosure:

21 (1) Except as provided in this subsection, all personnel records of
22 a current or former public official other than the public official's pub-
23 lic service or employment history, classification, pay grade and step,
24 longevity, gross salary and salary history, status, workplace and employing
25 agency. All other personnel information relating to a public employee or ap-
26 plicant including, but not limited to, information regarding sex, race, mar-
27 ital status, birth date, home address and telephone number, applications,
28 testing and scoring materials, grievances, correspondence and performance
29 evaluations, shall not be disclosed to the public without the employee's or
30 applicant's written consent. Names of applicants to classified or merit
31 system positions shall not be disclosed to the public without the appli-
32 cant's written consent. Disclosure of names as part of a background check
33 is permitted. Names of the five (5) final applicants to all other positions
34 shall be available to the public. If such group is less than five (5) final-
35 ists, then the entire list of applicants shall be available to the public. A
36 public official or authorized representative may inspect and copy his per-
37 sonnel records, except for material used to screen and test for employment.

38 (2) Retired employees' and retired public officials' home addresses,
39 home telephone numbers and other financial and nonfinancial membership
40 records; active and inactive member financial and membership records and
41 mortgage portfolio loan documents maintained by the public employee retire-
42 ment system. Financial statements prepared by retirement system staff,
43 funding agents and custodians concerning the investment of assets of the
44 public employee retirement system of Idaho are not considered confidential
45 under this chapter.

46 (3) Information and records submitted to the Idaho state lottery for
47 the performance of background investigations of employees, lottery retail-
48 ers and major procurement contractors; audit records of lottery retailers,
49 vendors and major procurement contractors submitted to or performed by the

1 Idaho state lottery; validation and security tests of the state lottery for
2 lottery games; business records and information submitted pursuant to sec-
3 tions 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such docu-
4 ments and information obtained and held for the purposes of lottery security
5 and investigative action as determined by lottery rules unless the public
6 interest in disclosure substantially outweighs the private need for protec-
7 tion from public disclosure.

8 (4) Records of a personal nature as follows:

9 (a) Records of personal debt filed with a public agency or independent
10 public body corporate and politic pursuant to law;

11 (b) Personal bank records compiled by a public depositor for the pur-
12 pose of public funds transactions conducted pursuant to law;

13 (c) Records of ownership of financial obligations and instruments of a
14 public agency or independent public body corporate and politic, such as
15 bonds, compiled by the public agency or independent public body corpo-
16 rate and politic pursuant to law;

17 (d) Records, with regard to the ownership of, or security interests in,
18 registered public obligations;

19 (e) Vital statistics records; and

20 (f) Military records as described in and pursuant to section 65-301,
21 Idaho Code.

22 (5) Information in an income or other tax return measured by items of
23 income or sales, which is gathered by a public agency for the purpose of ad-
24 ministering the tax, except such information to the extent disclosed in a
25 written decision of the tax commission pursuant to a taxpayer protest of a
26 deficiency determination by the tax commission, under the provisions of sec-
27 tion 63-3045B, Idaho Code.

28 (6) Records of a personal nature related directly or indirectly to the
29 application for and provision of statutory services rendered to persons
30 applying for public care for people who are elderly, indigent or have mental
31 or physical disabilities, or participation in an environmental or a public
32 health study, provided the provisions of this subsection making records
33 exempt from disclosure shall not apply to the extent that such records or
34 information contained in those records are necessary for a background check
35 on an individual that is required by federal law regulating the sale of
36 firearms, guns or ammunition.

37 (7) Employment security information, except that a person may agree,
38 through written, informed consent, to waive the exemption so that a third
39 party may obtain information pertaining to the person, unless access to the
40 information by the person is restricted by subsection (3) (a), (3) (b) or
41 (3) (d) of section 74-113, Idaho Code. Notwithstanding the provisions of
42 section 74-113, Idaho Code, a person may not review identifying information
43 concerning an informant who reported to the department of labor a suspected
44 violation by the person of the employment security law, chapter 13, title 72,
45 Idaho Code, under an assurance of confidentiality. As used in this section
46 and in chapter 13, title 72, Idaho Code, "employment security information"
47 means any information descriptive of an identifiable person or persons that
48 is received by, recorded by, prepared by, furnished to or collected by the
49 department of labor or the industrial commission in the administration of
50 the employment security law.

1 (8) Any personal records, other than names, business addresses and
2 business phone numbers, such as parentage, race, religion, sex, height,
3 weight, tax identification and social security numbers, financial worth or
4 medical condition submitted to any public agency or independent public body
5 corporate and politic pursuant to a statutory requirement for licensing,
6 certification, permit or bonding.

7 (9) Unless otherwise provided by agency rule, information obtained as
8 part of an inquiry into a person's fitness to be granted or retain a license,
9 certificate, permit, privilege, commission or position, private associa-
10 tion peer review committee records authorized in title 54, Idaho Code. Any
11 agency which has records exempt from disclosure under the provisions of this
12 subsection shall annually make available a statistical summary of the number
13 and types of matters considered and their disposition.

14 (10) The records, findings, determinations and decisions of any prelit-
15 igation screening panel formed under chapters 10 and 23, title 6, Idaho Code.

16 (11) Complaints received by the board of medicine and investigations
17 and informal proceedings, including informal proceedings of any committee
18 of the board of medicine, pursuant to chapter 18, title 54, Idaho Code, and
19 rules adopted thereunder.

20 (12) Records of the department of health and welfare or a public health
21 district that identify a person infected with a reportable disease.

22 (13) Records of hospital care, medical records, including prescrip-
23 tions, drug orders, records or any other prescription information that
24 specifically identifies an individual patient, prescription records main-
25 tained by the board of pharmacy under sections 37-2726 and 37-2730A, Idaho
26 Code, records of psychiatric care or treatment and professional counseling
27 records relating to an individual's condition, diagnosis, care or treat-
28 ment, provided the provisions of this subsection making records exempt from
29 disclosure shall not apply to the extent that such records or information
30 contained in those records are necessary for a background check on an indi-
31 vidual that is required by federal law regulating the sale of firearms, guns
32 or ammunition.

33 (14) Information collected pursuant to the directory of new hires act,
34 chapter 16, title 72, Idaho Code.

35 (15) Personal information contained in motor vehicle and driver records
36 that is exempt from disclosure under the provisions of chapter 2, title 49,
37 Idaho Code.

38 (16) Records of the financial status of prisoners pursuant to subsec-
39 tion (2) of section 20-607, Idaho Code.

40 (17) Records of the Idaho state police or department of correction re-
41 ceived or maintained pursuant to section 19-5514, Idaho Code, relating to
42 DNA databases and databanks.

43 (18) Records of the department of health and welfare relating to a sur-
44 vey, resurvey or complaint investigation of a licensed nursing facility
45 shall be exempt from disclosure. Such records shall, however, be subject to
46 disclosure as public records as soon as the facility in question has received
47 the report, and no later than the fourteenth day following the date that
48 department of health and welfare representatives officially exit the facil-
49 ity pursuant to federal regulations. Provided however, that for purposes

1 of confidentiality, no record shall be released under this section which
2 specifically identifies any nursing facility resident.

3 (19) Records and information contained in the registry of immunizations
4 against childhood diseases maintained in the department of health and wel-
5 fare, including information disseminated to others from the registry by the
6 department of health and welfare.

7 (20) Records of the Idaho housing and finance association (IHFA) relat-
8 ing to the following:

9 (a) Records containing personal financial, family, health or similar
10 personal information submitted to or otherwise obtained by the IHFA;

11 (b) Records submitted to or otherwise obtained by the IHFA with regard
12 to obtaining and servicing mortgage loans and all records relating to
13 the review, approval or rejection by the IHFA of said loans;

14 (c) Mortgage portfolio loan documents;

15 (d) Records of a current or former employee other than the employee's
16 duration of employment with the association, position held and loca-
17 tion of employment. This exemption from disclosure does not include the
18 contracts of employment or any remuneration, including reimbursement
19 of expenses, of the executive director, executive officers or commis-
20 sioners of the association. All other personnel information relating
21 to an association employee or applicant including, but not limited to,
22 information regarding sex, race, marital status, birth date, home ad-
23 dress and telephone number, applications, testing and scoring materi-
24 als, grievances, correspondence, retirement plan information and per-
25 formance evaluations, shall not be disclosed to the public without the
26 employee's or applicant's written consent. An employee or authorized
27 representative may inspect and copy that employee's personnel records,
28 except for material used to screen and test for employment or material
29 not subject to disclosure elsewhere in the Idaho public records act.

30 (21) Records of the department of health and welfare related to child
31 support services in cases in which there is reasonable evidence of domestic
32 violence, as defined in chapter 63, title 39, Idaho Code, that can be used
33 to locate any individuals in the child support case except in response to a
34 court order.

35 (22) Records of the Idaho state bar lawyer assistance program pursuant
36 to chapter 49, title 54, Idaho Code, unless a participant in the program au-
37 thORIZES the release pursuant to subsection (4) of section 54-4901, Idaho
38 Code.

39 (23) Records and information contained in the trauma registry created
40 by chapter 20, title 57, Idaho Code, together with any reports, analyses and
41 compilations created from such information and records.

42 (24) Records contained in the court files, or other records prepared as
43 part of proceedings for judicial authorization of sterilization procedures
44 pursuant to chapter 39, title 39, Idaho Code.

45 (25) The physical voter registration card on file in the county clerk's
46 office; however, a redacted copy of said card shall be made available consis-
47 tent with the requirements of this section. Information from the voter reg-
48 istration card maintained in the statewide voter registration database, in-
49 cluding age, will be made available except for the voter's driver's license
50 number, date of birth and, upon a showing that the voter comes within the pro-

1 visions of subsection (30) of this section or upon showing of good cause by
2 the voter to the county clerk in consultation with the county prosecuting
3 attorney, the physical residence address of the voter. For the purposes of
4 this subsection good cause shall include the protection of life and property
5 and protection of victims of domestic violence and similar crimes.

6 (26) File numbers, passwords and information in the files of the health
7 care directive registry maintained by the secretary of state under section
8 39-4515, Idaho Code, are confidential and shall not be disclosed to any per-
9 son other than to the person who executed the health care directive or the re-
10 vocation thereof and that person's legal representatives, to the person who
11 registered the health care directive or revocation thereof, and to physi-
12 cians, hospitals, medical personnel, nursing homes, and other persons who
13 have been granted file number and password access to the documents within
14 that specific file.

15 (27) Records in an address confidentiality program participant's file
16 as provided for in chapter 57, title 19, Idaho Code, other than the address
17 designated by the secretary of state, except under the following circum-
18 stances:

19 (a) If requested by a law enforcement agency, to the law enforcement
20 agency; or

21 (b) If directed by a court order, to a person identified in the order.

22 (28) Except as otherwise provided by law relating to the release of in-
23 formation to a governmental entity or law enforcement agency, any personal
24 information including, but not limited to, names, personal and business ad-
25 dresses and phone numbers, sex, height, weight, date of birth, social secu-
26 rity and driver's license numbers, or any other identifying numbers and/or
27 information related to any Idaho fish and game licenses, permits and tags un-
28 less written consent is obtained from the affected person.

29 (29) Documents and records related to ~~continuing education and record-~~
30 ~~keeping violations~~ alternatives to discipline that are maintained by
31 the Idaho board of veterinary medicine under the provisions of section
32 54-2118(1)(b), Idaho Code, provided the requirements set forth therein are
33 met.

34 (30) The Idaho residential street address and telephone number of an
35 eligible law enforcement officer and such officer's residing household mem-
36 ber(s) as provided for in chapter 58, title 19, Idaho Code, except under the
37 following circumstances:

38 (a) If directed by a court order, to a person identified in the court
39 order;

40 (b) If requested by a law enforcement agency, to the law enforcement
41 agency;

42 (c) If requested by a financial institution or title company for busi-
43 ness purposes, to the requesting financial institution or title com-
44 pany; or

45 (d) If the law enforcement officer provides written permission for dis-
46 closure of such information.

47 (31) All information exchanged between the Idaho transportation de-
48 partment and insurance companies, any database created, all information
49 contained in the verification system and all reports, responses or other

1 information generated for the purposes of the verification system, pursuant
2 to section 49-1234, Idaho Code.

3 (32) Nothing in this section shall prohibit the release of information
4 to the state controller as the state social security administrator as pro-
5 vided in section 59-1101A, Idaho Code.

6 (33) Personal information including, but not limited to, property val-
7 ues, personal and business addresses, phone numbers, dates of birth, social
8 security and driver's license numbers or any other identifying numbers or
9 information maintained by the administrator of the unclaimed property law
10 set forth in chapter 5, title 14, Idaho Code. Nothing in this subsection
11 shall prohibit the release of names, last known city of residence, property
12 value ranges and general property information by the administrator for the
13 purpose of reuniting unclaimed property with its owner.