

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 531, As Amended

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO FISH AND GAME; AMENDING SECTION 9-340C, IDAHO CODE, TO PROVIDE
2 FOR THE CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO IDAHO
3 FISH AND GAME LICENSES, PERMITS AND TAGS; AMENDING SECTION 36-402,
4 IDAHO CODE, TO PROVIDE FOR THE CONFIDENTIALITY OF CERTAIN INFORMATION
5 RELATING TO IDAHO FISH AND GAME LICENSES, PERMITS AND TAGS; AMENDING
6 SECTION 36-1510, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS
7 RELATING TO INTERFERENCE WITH THE TAKING OR CONTROL OF WILDLIFE ALSO
8 APPLY TO TRAPPING, TO PROHIBIT INTENTIONAL INTERFERENCE WITH LAWFUL
9 WILDLIFE CONTROL BY ANOTHER, TO DELETE THE PROHIBITION OF ENTERING OR
10 REMAINING IN AN AREA WHERE AN ANIMAL MAY BE TAKEN WITH THE INTENT TO
11 INTERFERE WITH THE LAWFUL TAKING OR PURSUIT OF WILDLIFE, TO PROHIBIT
12 CERTAIN HARASSMENT, INTIMIDATION OR THREATS RELATING TO THE LAWFUL
13 TAKING AND CONTROL OF FISH AND WILDLIFE AND TO CLARIFY THAT CERTAIN
14 PROHIBITIONS SHALL NOT APPLY TO CONSTITUTIONALLY PROTECTED ACTIVITIES;
15 PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.
16

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

18 SECTION 1. That Section 9-340C, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 9-340C. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PERSONAL
21 INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following
22 records are exempt from disclosure:

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

41 (2) Retired employees' and retired public officials' home addresses,
42 home telephone numbers and other financial and nonfinancial membership

1 records; active and inactive member financial and membership records
2 and mortgage portfolio loan documents maintained by the public employee
3 retirement system. Financial statements prepared by retirement system
4 staff, funding agents and custodians concerning the investment of assets
5 of the public employee retirement system of Idaho are not considered
6 confidential under this chapter.

7 (3) Information and records submitted to the Idaho state lottery
8 for the performance of background investigations of employees, lottery
9 retailers and major procurement contractors; audit records of lottery
10 retailers, vendors and major procurement contractors submitted to or
11 performed by the Idaho state lottery; validation and security tests of the
12 state lottery for lottery games; business records and information submitted
13 pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code,
14 and such documents and information obtained and held for the purposes of
15 lottery security and investigative action as determined by lottery rules
16 unless the public interest in disclosure substantially outweighs the
17 private need for protection from public disclosure.

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

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

21 (b) Personal bank records compiled by a public depositor for the
22 purpose of public funds transactions conducted pursuant to law;

23 (c) Records of ownership of financial obligations and instruments
24 of a public agency or independent public body corporate and politic,
25 such as bonds, compiled by the public agency or independent public body
26 corporate and politic pursuant to law;

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

29 (e) Vital statistics records; and

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

32 (5) Information in an income or other tax return measured by items of
33 income or sales, which is gathered by a public agency for the purpose of
34 administering the tax, except such information to the extent disclosed in
35 a written decision of the tax commission pursuant to a taxpayer protest of
36 a deficiency determination by the tax commission, under the provisions of
37 section 63-3045B, Idaho Code.

38 (6) Records of a personal nature related directly or indirectly
39 to the application for and provision of statutory services rendered to
40 persons applying for public care for the elderly, indigent, or mentally or
41 physically handicapped, or participation in an environmental or a public
42 health study, provided the provisions of this subsection making records
43 exempt from disclosure shall not apply to the extent that such records or
44 information contained in those records are necessary for a background check
45 on an individual that is required by federal law regulating the sale of
46 firearms, guns or ammunition.

47 (7) Employment security information, except that a person may agree,
48 through written, informed consent, to waive the exemption so that a third
49 party may obtain information pertaining to the person, unless access to
50 the information by the person is restricted by subsection (3) (a), (3) (b)

1 or (3) (d) of section 9-342, Idaho Code. Notwithstanding the provisions of
2 section 9-342, Idaho Code, a person may not review identifying information
3 concerning an informant who reported to the department of labor a suspected
4 violation by the person of the employment security law, chapter 13, title 72,
5 Idaho Code, under an assurance of confidentiality. As used in this section
6 and in chapter 13, title 72, Idaho Code, "employment security information"
7 means any information descriptive of an identifiable person or persons that
8 is received by, recorded by, prepared by, furnished to or collected by the
9 department of labor or the industrial commission in the administration of
10 the employment security law.

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

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

24 (10) The records, findings, determinations and decisions of any
25 prelitigation screening panel formed under chapters 10 and 23, title 6,
26 Idaho Code.

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

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

33 (13) Records of hospital care, medical records, including
34 prescriptions, drug orders, records or any other prescription information
35 that specifically identifies an individual patient, prescription records
36 maintained by the board of pharmacy under sections 37-2726 and 37-2730A,
37 Idaho Code, records of psychiatric care or treatment and professional
38 counseling records relating to an individual's condition, diagnosis, care
39 or treatment, provided the provisions of this subsection making records
40 exempt from disclosure shall not apply to the extent that such records or
41 information contained in those records are necessary for a background check
42 on an individual that is required by federal law regulating the sale of
43 firearms, guns or ammunition.

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

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

49 (16) Records of the financial status of prisoners pursuant to
50 subsection (2) of section 20-607, Idaho Code.

1 (17) Records of the Idaho state police or department of correction
2 received or maintained pursuant to section 19-5514, Idaho Code, relating to
3 DNA databases and databanks.

4 (18) Records of the department of health and welfare relating to a
5 survey, resurvey or complaint investigation of a licensed nursing facility
6 shall be exempt from disclosure. Such records shall, however, be subject
7 to disclosure as public records as soon as the facility in question has
8 received the report, and no later than the fourteenth day following the
9 date that department of health and welfare representatives officially exit
10 the facility pursuant to federal regulations. Provided however, that for
11 purposes of confidentiality, no record shall be released under this section
12 which specifically identifies any nursing facility resident.

13 (19) Records and information contained in the registry of immunizations
14 against childhood diseases maintained in the department of health and
15 welfare, including information disseminated to others from the registry by
16 the department of health and welfare.

17 (20) Records of the Idaho housing and finance association (IHFA)
18 relating to the following:

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

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

24 (c) Mortgage portfolio loan documents;

25 (d) Records of a current or former employee other than the employee's
26 duration of employment with the association, position held and location
27 of employment. This exemption from disclosure does not include the
28 contracts of employment or any remuneration, including reimbursement
29 of expenses, of the executive director, executive officers or
30 commissioners of the association. All other personnel information
31 relating to an association employee or applicant including, but not
32 limited to, information regarding sex, race, marital status, birth
33 date, home address and telephone number, applications, testing and
34 scoring materials, grievances, correspondence, retirement plan
35 information and performance evaluations, shall not be disclosed to
36 the public without the employee's or applicant's written consent.
37 An employee or authorized representative may inspect and copy that
38 employee's personnel records, except for material used to screen and
39 test for employment or material not subject to disclosure elsewhere in
40 the Idaho public records act.

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

46 (22) Records of the Idaho state bar lawyer assistance program pursuant
47 to chapter 49, title 54, Idaho Code, unless a participant in the program
48 authorizes the release pursuant to subsection (4) of section 54-4901, Idaho
49 Code.

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

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

7 (25) The physical voter registration card on file in the county clerk's
8 office; however, a redacted copy of said card shall be made available
9 consistent with the requirements of this section. Information from the
10 voter registration card maintained in the statewide voter registration
11 database, including age, will be made available except for the voter's
12 driver's license number, date of birth and, upon showing of good cause by
13 the voter to the county clerk in consultation with the county prosecuting
14 attorney, the physical residence address of the voter. For the purposes of
15 this subsection good cause shall include the protection of life and property
16 and protection of victims of domestic violence and similar crimes.

17 (26) File numbers, passwords and information in the files of the health
18 care directive registry maintained by the secretary of state under section
19 39-4515, Idaho Code, are confidential and shall not be disclosed to any
20 person other than to the person who executed the health care directive or the
21 revocation thereof and that person's legal representatives, to the person
22 who registered the health care directive or revocation thereof, and to
23 physicians, hospitals, medical personnel, nursing homes, and other persons
24 who have been granted file number and password access to the documents within
25 that specific file.

26 (27) Records in an address confidentiality program participant's
27 file as provided for in chapter 57, title 19, Idaho Code, other than the
28 address designated by the secretary of state, except under the following
29 circumstances:

30 (a) If requested by a law enforcement agency, to the law enforcement
31 agency; or

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

33 (28) Except as otherwise provided by law relating to the release of
34 information to a governmental entity or law enforcement agency, any personal
35 information including, but not limited to, names, personal and business
36 addresses and phone numbers, sex, height, weight, date of birth, social
37 security and driver's license numbers, or any other identifying numbers
38 and/or information related to any Idaho fish and game licenses, permits and
39 tags unless written consent is obtained from the affected person.

40 SECTION 2. That Section 36-402, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 36-402. LICENSES -- AUTHORITY -- LIMITATIONS -- CONFIDENTIALITY. The
43 licenses mentioned in this chapter shall entitle the person to whom issued
44 to take such wildlife as may be authorized by said license, subject to
45 the limitations set forth under this title and commission regulations
46 promulgated pursuant thereto. Except as otherwise provided by law relating
47 to the release of information to a governmental entity or law enforcement
48 agency, any personal information including, but not limited to, names,
49 personal and business addresses and phone numbers, sex, height, weight,

1 date of birth, social security and driver's license numbers, or any other
 2 identifying numbers and/or information related to any Idaho fish and
 3 game licenses, permits and tags shall be confidential and not subject to
 4 disclosure pursuant to the provisions of chapter 3, title 9, Idaho Code,
 5 unless written consent is obtained from the affected person.

6 SECTION 3. That Section 36-1510, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 36-1510. INTERFERENCE WITH HUNTING, FISHING ~~AND PREDATOR~~, TRAPPING OR
 9 WILDLIFE CONTROL. (1) No person shall:

10 (a) Intentionally interfere with the lawful taking or control of
 11 wildlife ~~or lawful predator control~~ by another; or

12 (b) Intentionally harass, bait, drive or disturb any animal for the
 13 purpose of disrupting lawful pursuit or taking thereof; or

14 (c) ~~Enter or remain in any area where any animal may be taken with the~~
 15 ~~intent to interfere with the lawful taking or pursuit of wildlife; or~~

16 ~~(d) Damage or destroy in any way any lawful hunting blind with the~~
 17 ~~intent to interfere with its usage for hunting; or~~

18 (d) Harass, intimidate or threaten by any means including, but not
 19 limited to, personal or written contact, or via telephone, e-mail or
 20 website, any person who is or was engaged in the lawful taking or control
 21 of fish or wildlife.

22 (2) Any fish and game enforcement officer or peace officer who
 23 reasonably believes that a person has violated provisions of this section
 24 may arrest such person therefor.

25 (3) (a) The conduct declared unlawful in this section does not include
 26 any incidental interference arising from lawful activity by land users
 27 or interference by a landowner or members of his immediate family
 28 arising from activities on his own property.

29 (b) The conduct declared unlawful in this section does not include
 30 constitutionally protected activity.

31 (4) Every person convicted or entering a plea of guilty or of nolo
 32 contendere for violation of this section is subject to a fine of not to exceed
 33 one thousand five hundred dollars (\$1,500) or confinement for six (6) months
 34 in the county jail, or both such fine and confinement.

35 (5) In addition to the penalties provided in subsection (4) of this
 36 section, any person who is damaged by any act prohibited in this section
 37 may recover treble civil damages. A party seeking civil damages under this
 38 subsection (5) may recover upon proof of a violation of the provisions of
 39 this section by a preponderance of the evidence. The state of Idaho, or any
 40 person may have relief by injunction against violations of the provisions of
 41 this section. Any party recovering judgment under this subsection (5) may be
 42 awarded a reasonable attorney's fee.

43 SECTION 4. SEVERABILITY. The provisions of this act are hereby declared
 44 to be severable and if any provision of this act or the application of such
 45 provision to any person or circumstance is declared invalid for any reason,
 46 such declaration shall not affect the validity of the remaining portions of
 47 this act.

1 SECTION 5. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after its
3 passage and approval.