

IN THE SENATE

SENATE BILL NO. 1119

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO PUBLIC RECORDS; AMENDING SECTION 74-105, IDAHO CODE, TO PROVIDE
2 THAT CERTAIN RECORDS OF THE STATE PUBLIC DEFENSE COMMISSION SHALL BE EX-
3 EMPT FROM DISCLOSURE AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING
4 AN EMERGENCY.
5

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

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

9 74-105. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS,
10 INVESTIGATORY RECORDS OF AGENCIES, EVACUATION AND EMERGENCY RESPONSE PLANS,
11 WORKER'S COMPENSATION. The following records are exempt from disclosure:

12 (1) Investigatory records of a law enforcement agency, as defined in
13 section 74-101(7), Idaho Code, under the conditions set forth in section
14 74-124, Idaho Code.

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

28 (3) Records of the custody review board of the Idaho department of ju-
29 venile corrections, including records containing the names, addresses and
30 written statements of victims and family members of juveniles, shall be ex-
31 empt from public disclosure pursuant to section 20-533A, Idaho Code.

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

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

37 (ii) Records that contain any identifying information, or any in-
38 formation that would lead to the identification of any victims or
39 witnesses;

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

1 (iv) Records gathered during the course of the presentence inves-
2 tigation;

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

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

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

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

35 (6) Records of the sheriff or Idaho state police received or maintained
36 pursuant to sections 18-3302, 18-3302H and 18-3302K, Idaho Code, relating
37 to an applicant or licensee except that any law enforcement officer and law
38 enforcement agency, whether inside or outside the state of Idaho, may access
39 information maintained in the license record system as set forth in section
40 18-3302K(16), Idaho Code.

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

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

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

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

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

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

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

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

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

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

48 (12) Criminal history records and fingerprints, as defined by section
49 67-3001, Idaho Code, and compiled by the Idaho state police. Such records
50 shall be released only in accordance with chapter 30, title 67, Idaho 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 SECTION 2. An emergency existing therefor, which emergency is hereby
26 declared to exist, this act shall be in full force and effect on and after its
27 passage and approval.