

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 500

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING SECTION 74-124, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM DISCLOSURE FOR CERTAIN RECORDS.

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

SECTION 1. That Section 74-124, Idaho Code, be, and the same is hereby amended to read as follows:

74-124. EXEMPTIONS FROM DISCLOSURE -- CONFIDENTIALITY. (1) Notwithstanding any statute or rule of court to the contrary, nothing in this chapter nor chapter 10, title 59, Idaho Code, shall be construed to require disclosure of investigatory records compiled for law enforcement purposes by a law enforcement agency, but such exemption from disclosure applies only to the extent that the production of such records would:

(a) Interfere with enforcement proceedings;

(b) Deprive a person of a right to a fair trial or an impartial adjudication;

(c) Constitute an unwarranted invasion of personal privacy;

(d) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement agency in the course of a criminal investigation, confidential information furnished only by the confidential source;

(e) Disclose investigative techniques and procedures; ~~or~~

(f) Endanger the life or physical safety of law enforcement personnel; or

(g) Disclose the identity of a reporting party maintained by any law enforcement entity or the department of health and welfare relating to the investigation of child abuse, neglect or abandonment unless the reporting party consents in writing to the disclosure or the disclosure of the reporting party's identity is required in any administrative or judicial proceeding.

(2) Notwithstanding subsection (1) of this section, any person involved in a motor vehicle collision which is investigated by a law enforcement agency, that person's authorized legal representative and the insurer shall have a right to a complete, unaltered copy of the impact report, or its successors, and the final report prepared by the agency.

(3) An inactive investigatory record shall be disclosed unless the disclosure would violate the provisions of subsection (1) (a) through ~~(f)~~(g) of this section. Investigatory record as used herein means information with respect to an identifiable person or group of persons compiled by a law enforcement agency in the course of conducting an investigation of a specific act or omission and shall not include the following information:

(a) The time, date, location, and nature and description of a reported crime, accident or incident;

- 1 (b) The name, sex, age, and address of a person arrested, except as oth-
2 erwise provided by law;
3 (c) The time, date, and location of the incident and of the arrest;
4 (d) The crime charged;
5 (e) Documents given or required by law to be given to the person ar-
6 rested;
7 (f) Informations and indictments except as otherwise provided by law;
8 and
9 (g) Criminal history reports.

10 As used herein, the term "law enforcement agency" means the office of
11 the attorney general, the office of the state controller, the Idaho state po-
12 lice, the office of any prosecuting attorney, sheriff or municipal police
13 department.

14 (4) Whenever it is made to appear by verified petition to the district
15 court of the county where the records or some part thereof are situated that
16 certain investigative records are being improperly withheld from a member of
17 the public, the court shall order the officer or person charged with with-
18 holding the records to disclose the investigative record or show cause why he
19 should not do so. The court shall decide the case after examining the record
20 in camera, papers filed by the parties, and such oral argument and additional
21 evidence as the court may allow.

22 If the court finds that the public official's decision to refuse disclo-
23 sure is not justified, he shall order the public official to make the record
24 public. If the judge determines that the public official was justified in
25 refusing to make the record public, he shall return the item to the public
26 official without disclosing its content with an order supporting the deci-
27 sion refusing disclosure. Any person who fails to obey the order of the court
28 shall be cited to show cause why he is not in contempt of court. The court
29 may, in its discretion, award costs and fees to the prevailing party.