

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 620

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO BOOKING PHOTOGRAPHS; AMENDING SECTION 20-601, IDAHO CODE, TO
2 PROVIDE THAT A BOOKING PHOTOGRAPH SHALL NOT BE MADE PUBLIC IN CERTAIN
3 INSTANCES, TO PROVIDE CERTAIN EXCEPTIONS, TO DEFINE A TERM, AND TO MAKE
4 TECHNICAL CORRECTIONS; AMENDING SECTION 74-105, IDAHO CODE, TO PROVIDE
5 THAT CERTAIN RECORDS SHALL BE EXEMPT FROM DISCLOSURE AND TO MAKE TECHNICAL
6 CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE
7 DATE.
8

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

10 SECTION 1. That Section 20-601, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 20-601. COUNTY JAILS -- BY WHOM KEPT AND FOR WHAT USE. (1) The common
13 jails in the several counties of this state are kept by the sheriffs of the
14 counties in which they are respectively situated, and are used as follows:

15 1.(a) For the detention of persons committed in order to secure their
16 attendance as witnesses in criminal cases.

17 2.(b) For the detention of persons charged with crime and committed for
18 trial.

19 3.(c) For the confinement of persons committed for contempt, or upon
20 civil process, or by other authority of law.

21 4.(d) For the confinement of persons sentenced to imprisonment therein
22 upon a conviction for crime.

23 5.(2) Any person who is arrested and taken to a county jail shall sub-
24 mit to the entire booking process, ~~to include,~~ including but not be limited
25 to, having his or her booking photograph taken and his or her fingerprints
26 recorded. Any person who refuses to submit to the entire booking process
27 will be held in the county jail until the process is completed, or until or-
28 dered to be released by a magistrate or district judge. A person held under
29 this section shall be taken before a magistrate at the next scheduled first
30 appearance time, but shall not be released until either the entire booking
31 process is completed or the judge orders the release.

32 (3) A sheriff shall not make public or, except to other law enforcement
33 agencies and for any internal processing, provide a copy of a booking photo-
34 graph in any format for a person who has been booked into a county jail solely
35 for a misdemeanor not involving an assault or battery and who, within twenty-
36 four (24) hours of booking, was subsequently detained for a mental hold at
37 or transferred to a hospital or facility to receive medical care for a men-
38 tal illness pursuant to section 66-326, Idaho Code. Such photograph shall
39 be made public only upon disposition of the criminal charges via a finding
40 of guilt or a plea of guilty or nolo contendere, but in no event, not ear-
41 lier than three (3) months following booking. Nothing in this subsection
42 shall preclude a sheriff from publicly displaying a booking photograph for

1 the protection of the public or officer safety or in the event of an emer-
 2 gency.

3 (4) As used in this section, "booking photograph" means a photograph
 4 or image of an individual that is generated for identification purposes when
 5 the individual is booked into a county jail.

6 SECTION 2. That Section 74-105, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 74-105. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS,
 9 INVESTIGATORY RECORDS OF AGENCIES, EVACUATION AND EMERGENCY RESPONSE PLANS,
 10 WORKER'S COMPENSATION. The following records are exempt from disclosure:

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

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

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

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

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

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

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

41 (iv) Records gathered during the course of the presentence inves-
 42 tigation;

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

46 (b) Records, other than public expenditure records, related to pro-
 47 posed or existing critical infrastructure held by or in the custody
 48 of any public agency only when the disclosure of such information is
 49 reasonably likely to jeopardize the safety of persons, property or the

1 public safety. Such records may include emergency evacuation, escape
2 or other emergency response plans, vulnerability assessments, oper-
3 ation and security manuals, plans, blueprints or security codes. For
4 purposes of this paragraph, "system" includes electrical, computer
5 and telecommunication systems, electric power (including production,
6 ~~generating~~ generation, transportation, transmission and distribu-
7 tion), heating, ventilation, and air conditioning. For purposes of
8 this subsection, "critical infrastructure" means any system or asset,
9 whether physical or virtual, so vital to the state of Idaho, including
10 its political subdivisions, that the incapacity or destruction of such
11 system or asset would have a debilitating impact on state or national
12 economic security, state or national public health or safety, or any
13 combination of ~~those matters~~ such interests.

14 (c) Records of the Idaho commission of pardons and parole shall be ex-
15 empt from public disclosure pursuant to section 20-1003, Idaho Code,
16 and section 20-1005, Idaho Code. Records exempt from disclosure shall
17 also include those containing the names, addresses and written state-
18 ments of victims.

19 (5) Voting records of the former sexual offender classification board.
20 The written record of the vote to classify an offender as a violent sexual
21 predator by each board member in each case reviewed by that board member
22 shall be exempt from disclosure to the public and shall be made available
23 upon request only to the governor, the chairman of the senate judiciary and
24 rules committee, and the chairman of the house of representatives judiciary,
25 rules and administration committee, for all lawful purposes.

26 (6) Records of the sheriff or Idaho state police received or maintained
27 pursuant to sections 18-3302, 18-3302H and 18-3302K, Idaho Code, relating
28 to an applicant or licensee, except that any law enforcement officer and law
29 enforcement agency, whether inside or outside the state of Idaho, may access
30 information maintained in the license record system as set forth in section
31 18-3302K(16), Idaho Code.

32 (7) Records of investigations prepared by the department of health and
33 welfare pursuant to its statutory responsibilities dealing with the protec-
34 tion of children, the rehabilitation of youth, adoptions and the commitment
35 of mentally ill persons. For reasons of health and safety, best interests of
36 the child or public interest, the department of health and welfare may pro-
37 vide for the disclosure of records of investigations associated with actions
38 pursuant to the provisions of chapter 16, title 16, Idaho Code, prepared by
39 the department of health and welfare pursuant to its statutory responsibil-
40 ities dealing with the protection of children, except any such records re-
41 garding adoptions shall remain exempt from disclosure.

42 (8) Records, including but not limited to, investigative reports,
43 resulting from investigations conducted into complaints of discrimination
44 made to the Idaho human rights commission unless the public interest in
45 allowing inspection and copying of such records outweighs the legitimate
46 public or private interest in maintaining confidentiality of such records.
47 A person may inspect and copy documents from an investigative file to which
48 he or she is a named party if such documents are not otherwise prohibited from
49 disclosure by federal law or regulation or state law. The confidentiality of
50 this subsection will no longer apply to any record used in any judicial pro-

1 ceeding brought by a named party to the complaint or investigation, or by the
2 Idaho human rights commission, relating to the complaint of discrimination.

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

7 (10) The worker's compensation records of the Idaho industrial commis-
8 sion, provided that the industrial commission shall make such records avail-
9 able:

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

12 (b) To employers and prospective employers subject to the provisions of
13 the Americans with disabilities act, 42 U.S.C. 12112, or other statu-
14 tory limitations, who certify that the information is being requested
15 with respect to a worker to whom the employer has extended an offer of
16 employment and will be used in accordance with the provisions of the
17 Americans with disabilities act, 42 U.S.C. 12112, or other statutory
18 limitations; or

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

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

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

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

39 (12) Criminal history records and fingerprints, as defined in section
40 67-3001, Idaho Code, and compiled by the Idaho state police. Such records
41 shall be released only in accordance with chapter 30, title 67, Idaho Code.

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

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

48 (15) Except as provided in section 72-1007, Idaho Code, records of the
49 Idaho industrial commission relating to compensation for crime victims
50 ~~under~~ pursuant to chapter 10, title 72, Idaho Code.

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

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

9 (18) The following records of the state public defense commission:

10 (a) Records containing information protected or exempted from disclo-
11 sure under the rules adopted by the Idaho supreme court, attorney work
12 product, attorney-client privileged communication, records containing
13 confidential information from an individual about his criminal case or
14 performance of his attorney, or confidential information about an in-
15 quiry into an attorney's fitness to represent indigent defendants.

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

23 (19) Records and information received by the office of the state con-
24 troller from any local government, state agency and department, or volunteer
25 nongovernmental entity for purposes of entry into the criminal justice
26 integrated data system pursuant to section 19-4803, Idaho Code, and all
27 records created by persons authorized to research and analyze information
28 entered into the criminal justice integrated data system, regardless of
29 whether such records were previously exempted from disclosure or redacted
30 pursuant to state or federal law or court order. This exemption does not
31 apply to projects, reports, and data analyses approved for release by the
32 data oversight council and issued by persons authorized to conduct research
33 and analysis as set forth in chapter 48, title 19, Idaho Code. Records and
34 information relating to the management of the criminal justice integrated
35 data system shall not be exempt from disclosure except as otherwise provided
36 in law.

37 (20) Booking photographs for a person who has been booked into a county
38 jail solely for a misdemeanor not involving an assault or battery and who,
39 within twenty-four (24) hours of booking, was subsequently detained for a
40 mental hold at or transferred to a hospital or facility to receive medical
41 care for a mental illness pursuant to, and for the time period described in,
42 section 20-601(3), Idaho Code.

43 SECTION 3. An emergency existing therefor, which emergency is hereby
44 declared to exist, this act shall be in full force and effect on and after
45 January 1, 2023.