LEGISLATURE OF THE STATE OF IDAHO

Sixty-sixth Legislature

Second Regular Session - 2022

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 658

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO EXECUTION; AMENDING SECTION 19-2716A, IDAHO CODE, TO PROVIDE
CONFIDENTIALITY FOR CERTAIN PERSONS AND TO PROVIDE THAT CERTAIN PERSONS
SHALL NOT HAVE THEIR LICENSURE SUSPENDED OR REVOKED; AMENDING SECTION
74-105, IDAHO CODE, TO PROVIDE THAT CERTAIN RECORDS SHALL BE EXEMPT FROM
DISCLOSURE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 19-2716A, Idaho Code, be, and the same is hereby
amended to read as follows:

19-2716A. PRACTICE OF MEDICINE AND POSSESSION OF CONTROLLED SUB-
STANCES -- EXEMPTION -- EXCEPTIONS TO GOVERNMENTAL LIABILITY -- CONFIDENTIALITY -- LICENSURE. (1) Notwithstanding any other provision of law, inflection of the punishment of death in the manner required by section 19-2716, Idaho Code, shall not be construed as the practice of medicine. The director of the department of correction and all persons authorized by him to participate in an execution, as provided in section 19-2716, Idaho Code, shall be exempt from all laws, rules and regulations governing the practice of medicine.

(2) For the purposes of carrying out the provisions of section 19-2716, Idaho Code, any pharmacy, prescriber, manufacturer, wholesale distributor or other entity authorized by law to possess controlled substances may distribute controlled substances to the director or his designees and shall not be subject to criminal or civil liability for the death of the condemned person.

(3) For the purposes of carrying out the provisions of section 19-2716, Idaho Code, the director and his designees may obtain, possess, store and administer controlled substances and are exempt from all laws, rules and regulations governing pharmacies and controlled substances, notwithstanding any other provision of law. Any employee of the state of Idaho participating in an execution pursuant to section 19-2716, Idaho Code, shall be presumed to be acting within the course and scope of his employment and without malice or criminal intent for purposes of section 6-903, Idaho Code. Any employee, agent or contractor of the state of Idaho participating in an execution pursuant to section 19-2716, Idaho Code, shall not be subject to criminal or civil liability for the death of the condemned person.

(4) For purposes of carrying out the provisions of section 19-2716, Idaho Code, the identities of any of the following persons or entities involved in the planning, training, or performance of an execution shall be confidential, shall not be subject to disclosure, and shall not be admissible as evidence or discoverable in any proceeding before any court, tribunal, board, agency, or person:
(a) The on-site physician and any member of the escort team or medical
team; and
(b) Any person or entity who compounds, synthesizes, tests, sells,
supplies, manufactures, stores, transports, procures, dispenses, or
prescribes the chemicals or substances for use in an execution or that
provides the medical supplies or medical equipment for the execution
process.
(5) If any person who participates or performs ancillary functions in
an execution is licensed by a board, the licensing board shall not suspend or
revoke the person's license, or take disciplinary action against the person,
because of the person's participation in an execution.

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

74-105. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS,
INVESTIGATORY RECORDS OF AGENCIES, EVACUATION AND EMERGENCY RESPONSE PLANS,
WORKER'S COMPENSATION. The following records are exempt from disclosure:
(1) Investigatory records of a law enforcement agency, as defined in
section 74-101(7), Idaho Code, under the conditions set forth in section
74-124, Idaho Code.
(2) Juvenile records of a person maintained pursuant to chapter 5,
title 20, Idaho Code, except that facts contained in such records shall be
furnished upon request in a manner determined by the court to persons and
governmental and private agencies and institutions conducting pertinent
research studies or having a legitimate interest in the protection, welfare
and treatment of the juvenile who is thirteen (13) years of age or younger.
If the juvenile is petitioned or charged with an offense which would be a
criminal offense if committed by an adult, the name, offense of which the
juvenile was petitioned or charged and disposition of the court shall be sub-
ject to disclosure as provided in section 20-525, Idaho Code. Additionally,
facts contained in any records of a juvenile maintained under chapter 5,
title 20, Idaho Code, shall be furnished upon request to any school district
where the juvenile is enrolled or is seeking enrollment.
(3) Records of the custody review board of the Idaho department of ju-
venile corrections, including records containing the names, addresses and
written statements of victims and family members of juveniles, shall be ex-
empt from public disclosure pursuant to section 20-533A, Idaho Code.
(4) (a) The following records of the department of correction:

(i) Records of which the public interest in confidentiality, pub-
lic safety, security and habilitation clearly outweighs the pub-
lic interest in disclosure as identified pursuant to the authority
of the state board of correction under section 20-212, Idaho Code;
(ii) Records that contain any identifying information, or any in-
formation that would lead to the identification of any victims or
witnesses;
(iii) Records that reflect future transportation or movement of a
prisoner;
(iv) Records gathered during the course of the presentence inves-
tigation;
(v) Records of a prisoner, as defined in section 74-101(10), Idaho Code, or probationer shall not be disclosed to any other prisoner or probationer.

(b) Records, other than public expenditure records, related to proposed or existing critical infrastructure held by or in the custody of any public agency only when the disclosure of such information is reasonably likely to jeopardize the safety of persons, property or the public safety. Such records may include emergency evacuation, escape or other emergency response plans, vulnerability assessments, operation and security manuals, plans, blueprints or security codes. For purposes of this paragraph, "system" includes electrical, computer and telecommunication systems, electric power (including production, generating, transportation, transmission and distribution), heating, ventilation, and air conditioning. For purposes of this subsection, "critical infrastructure" means any system or asset, whether physical or virtual, so vital to the state of Idaho, including its political subdivisions, that the incapacity or destruction of such system or asset would have a debilitating impact on state or national economic security, state or national public health or safety or any combination of those matters.

(c) Records of the Idaho commission of pardons and parole shall be exempt from public disclosure pursuant to section 20-1003, Idaho Code, and section 20-1005, Idaho Code. Records exempt from disclosure shall also include those containing the names, addresses and written statements of victims.

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

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

(7) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons. For reasons of health and safety, best interests of the child or public interest, the department of health and welfare may provide for the disclosure of records of investigations associated with actions pursuant to the provisions of chapter 16, title 16, Idaho Code, prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children except any such records regarding adoptions shall remain exempt from disclosure.

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

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

(10) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

(a) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or
(b) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or
(c) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or
(d) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction; or
(e) Although a claimant's records maintained by the industrial commission, including medical and rehabilitation records, are otherwise exempt from public disclosure, the quoting or discussing of medical or rehabilitation records contained in the industrial commission's records during a hearing for compensation or in a written decision issued by the industrial commission shall be permitted; provided further, the true identification of the parties shall not be exempt from public disclosure in any written decision issued and released to the public by the industrial commission.

(11) Records of investigations compiled by the commission on aging involving vulnerable adults, as defined in section 18-1505, Idaho Code, alleged to be abused, neglected or exploited.

(12) Criminal history records and fingerprints, as defined in section 67-3001, Idaho Code, and compiled by the Idaho state police. Such records shall be released only in accordance with chapter 30, title 67, Idaho Code.
(13) Records furnished or obtained pursuant to section 41-1019, Idaho Code, regarding termination of an appointment, employment, contract or other insurance business relationship between an insurer and a producer.

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

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

(16) Records or information identifying a complainant maintained by the department of health and welfare pursuant to section 39-3556, Idaho Code, relating to certified family homes, unless the complainant consents in writing to the disclosure or the disclosure of the complainant's identity is required in any administrative or judicial proceeding.

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

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

(a) Records containing information protected or exempted from disclosure under the rules adopted by the Idaho supreme court, attorney work product, attorney-client privileged communication, records containing confidential information from an individual about his criminal case or performance of his attorney, or confidential information about an inquiry into an attorney's fitness to represent indigent defendants.

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

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

(20) Records that contain any identifying information or any information that could lead to the identification of any persons or entities that participate in or assist with an execution of a death sentence as described in section 19-2716A, Idaho Code.
SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.