

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 540

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO THE PUBLIC RECORDS ACT; AMENDING SECTION 74-105, IDAHO CODE, TO PROVIDE THAT CERTAIN RECORDS OF THE DEPARTMENT OF JUVENILE CORRECTIONS SHALL BE EXEMPT FROM DISCLOSURE AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. 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 that 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 subject to disclosure as provided in section 20-525, Idaho Code. Additionally, facts contained in any records of a juvenile maintained pursuant to 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 juvenile corrections, including records containing the names, addresses and written statements of victims and family members of juveniles, shall be exempt from public disclosure pursuant to section 20-533A, Idaho Code.

(4) (a) The following records of the department of correction and the department of juvenile corrections:

(i) Records of which the public interest in confidentiality, public safety, security and habilitation clearly outweighs the public interest in disclosure as identified pursuant to the authority of the state board of correction under section 20-212, Idaho Code, or the authority of the department of juvenile corrections under section 20-504, Idaho Code;

(ii) Records that contain any identifying information or any information that would lead to the identification of any victims or witnesses;

1 (iii) Records that reflect future transportation or movement of a  
2 prisoner or juvenile;

3 (iv) Records gathered during the course of the presentence inves-  
4 tigation or records gathered during the observation and assess-  
5 ment process at the department of juvenile corrections; and

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

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

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

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

37 (6) Records of the sheriff or Idaho state police received or maintained  
38 pursuant to sections 18-3302, 18-3302H and 18-3302K, Idaho Code, relating  
39 to an applicant or licensee, except that any law enforcement officer and law  
40 enforcement agency, whether inside or outside the state of Idaho, may access  
41 information maintained in the license record system as set forth in section  
42 18-3302K(16), Idaho Code.

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

1 ities dealing with the protection of children, except any such records re-  
2 garding adoptions shall remain exempt from disclosure.

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

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

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

21 ~~(a)~~ (i) To the parties in any worker's compensation claim and to  
22 the industrial special indemnity fund of the state of Idaho; ~~or~~

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

30 ~~(c)~~ (iii) To employers and prospective employers not subject to  
31 the provisions of the Americans with disabilities act, 42 U.S.C.  
32 12112, or other statutory limitations, provided the employer  
33 presents a written authorization from the person to whom the  
34 records pertain; or

35 ~~(d)~~ (iv) To others who demonstrate that the public interest in al-  
36 lowing inspection and copying of such records outweighs the pub-  
37 lic or private interest in maintaining the confidentiality of such  
38 records, as determined by a civil court of competent jurisdiction; ~~or~~  
39 ~~or~~.

40 ~~(e)~~ (b) Although a claimant's records maintained by the industrial com-  
41 mission, including medical and rehabilitation records, are otherwise  
42 exempt from public disclosure, the quoting or discussing of medical  
43 or rehabilitation records contained in the industrial commission's  
44 records during a hearing for compensation or in a written decision is-  
45 sued by the industrial commission shall be permitted; provided further,  
46 the true identification of the parties shall not be exempt from public  
47 disclosure in any written decision issued and released to the public by  
48 the industrial commission.

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

4 (12) Criminal history records and fingerprints as defined in section  
5 67-3001, Idaho Code, and compiled by the Idaho state police. Such records  
6 shall be released only in accordance with chapter 30, title 67, Idaho Code.

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

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

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

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

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

24 (18) Records of the office of the state public defender and the office of  
25 the state appellate public defender containing information protected or ex-  
26 empted from disclosure under the rules adopted by the Idaho supreme court,  
27 attorney work product, attorney-client privileged communication, records  
28 containing confidential information from an individual about his criminal  
29 case or performance of his attorney, or confidential information about an  
30 inquiry into an attorney's fitness to represent indigent defendants.

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

45 (20) Records that contain any identifying information or any informa-  
46 tion that could lead to the identification of any persons or entities that  
47 participate in or assist with an execution of a death sentence as described  
48 in section 19-2716A, Idaho Code.

49 (21) Records, other than public expenditure records, relating to  
50 the nature, location, or function of cybersecurity devices, programs, or

1 systems designed to protect computer, information technology, or communica-  
2 tions systems against terrorist or other attacks.

3 (22) Any index, report, or records of any person arrested for, prose-  
4 cuted for, or convicted of a crime in this state who has successfully peti-  
5 tioned a court to have his records shielded from disclosure pursuant to sec-  
6 tion 67-3004(11), Idaho Code.

7 (23) Any record of an unlawful detainer under section 6-303, Idaho Code,  
8 if shielded by the court pursuant to section 6-303A, Idaho Code.

9 SECTION 2. An emergency existing therefor, which emergency is hereby  
10 declared to exist, this act shall be in full force and effect on and after  
11 July 1, 2026.