

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 388

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO PUBLIC RECORDS; AMENDING SECTION 74-106, IDAHO CODE, TO EXEMPT
2 FROM DISCLOSURE CERTAIN INFORMATION CONTAINED IN DOCUMENTS FILED WITH
3 THE SECRETARY OF STATE AND TO MAKE TECHNICAL CORRECTIONS.
4

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

6 SECTION 1. That Section 74-106, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 74-106. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PER-
9 SONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following
10 records are exempt from disclosure:

11 (1) Except as provided in this subsection, all personnel records of
12 a current or former public official other than the public official's pub-
13 lic service or employment history, classification, pay grade and step,
14 longevity, gross salary and salary history, status, workplace and employing
15 agency. All other personnel information relating to a public employee or ap-
16 plicant including, but not limited to, information regarding sex, race, mar-
17 ital status, birth date, home address and telephone number, applications,
18 testing and scoring materials, grievances, correspondence and performance
19 evaluations, shall not be disclosed to the public without the employee's or
20 applicant's written consent. Names of applicants to classified or merit
21 system positions shall not be disclosed to the public without the appli-
22 cant's written consent. Disclosure of names as part of a background check
23 is permitted. Names of the five (5) final applicants to all other positions
24 shall be available to the public. If such group is less than five (5) final-
25 ists, then the entire list of applicants shall be available to the public. A
26 public official or authorized representative may inspect and copy his per-
27 sonnel records, except for material used to screen and test for employment.

28 (2) Retired employees' and retired public officials' home addresses,
29 home telephone numbers and other financial and nonfinancial membership
30 records; active and inactive member financial and membership records and
31 mortgage portfolio loan documents maintained by the public employee retire-
32 ment system. Financial statements prepared by retirement system staff,
33 funding agents and custodians concerning the investment of assets of the
34 public employee retirement system of Idaho are not considered confidential
35 under this chapter.

36 (3) Information and records submitted to the Idaho state lottery for
37 the performance of background investigations of employees, lottery retail-
38 ers and major procurement contractors; audit records of lottery retailers,
39 vendors and major procurement contractors submitted to or performed by the
40 Idaho state lottery; validation and security tests of the state lottery for
41 lottery games; business records and information submitted pursuant to sec-
42 tions 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such docu-

1 ments and information obtained and held for the purposes of lottery security
2 and investigative action as determined by lottery rules unless the public
3 interest in disclosure substantially outweighs the private need for protec-
4 tion from public disclosure.

5 (4) Records of a personal nature as follows:

6 (a) Records of personal debt filed with a public agency or independent
7 public body corporate and politic pursuant to law;

8 (b) Personal bank records compiled by a public depositor for the pur-
9 pose of public funds transactions conducted pursuant to law;

10 (c) Records of ownership of financial obligations and instruments of a
11 public agency or independent public body corporate and politic, such as
12 bonds, compiled by the public agency or independent public body corpo-
13 rate and politic pursuant to law;

14 (d) Records, with regard to the ownership of, or security interests in,
15 registered public obligations;

16 (e) Vital statistics records; and

17 (f) Military records as described in and pursuant to section 65-301,
18 Idaho Code.

19 (5) Information in an income or other tax return measured by items of
20 income or sales, which is gathered by a public agency for the purpose of ad-
21 ministering the tax, except such information to the extent disclosed in a
22 written decision of the tax commission pursuant to a taxpayer protest of a
23 deficiency determination by the tax commission, under the provisions of sec-
24 tion 63-3045B, Idaho Code.

25 (6) Records of a personal nature related directly or indirectly to the
26 application for and provision of statutory services rendered to persons
27 applying for public care for people who are elderly, indigent or have mental
28 or physical disabilities, or participation in an environmental or a public
29 health study, provided the provisions of this subsection making records
30 exempt from disclosure shall not apply to the extent that such records or
31 information contained in those records are necessary for a background check
32 on an individual that is required by federal law regulating the sale of
33 firearms, guns or ammunition.

34 (7) Employment security information, except that a person may agree,
35 through written, informed consent, to waive the exemption so that a third
36 party may obtain information pertaining to the person, unless access to the
37 information by the person is restricted by subsection (3) (a), (3) (b) or
38 (3) (d) of section 74-113, Idaho Code. Notwithstanding the provisions of
39 section 74-113, Idaho Code, a person may not review identifying information
40 concerning an informant who reported to the department of labor a suspected
41 violation by the person of the employment security law, chapter 13, title 72,
42 Idaho Code, under an assurance of confidentiality. As used in this section
43 and in chapter 13, title 72, Idaho Code, "employment security information"
44 means any information descriptive of an identifiable person or persons that
45 is received by, recorded by, prepared by, furnished to or collected by the
46 department of labor or the industrial commission in the administration of
47 the employment security law.

48 (8) Any personal records, other than names, business addresses and
49 business phone numbers, such as parentage, race, religion, sex, height,
50 weight, tax identification and social security numbers, financial worth or

1 medical condition submitted to any public agency or independent public body
2 corporate and politic pursuant to a statutory requirement for licensing,
3 certification, permit or bonding.

4 (9) Unless otherwise provided by agency rule, information obtained as
5 part of an inquiry into a person's fitness to be granted or retain a license,
6 certificate, permit, privilege, commission or position, private associa-
7 tion peer review committee records authorized in title 54, Idaho Code. Any
8 agency ~~which~~ that has records exempt from disclosure under the provisions of
9 this subsection shall annually make available a statistical summary of the
10 number and types of matters considered and their disposition.

11 (10) The records, findings, determinations and decisions of any prelit-
12 igation screening panel formed under chapters 10 and 23, title 6, Idaho Code.

13 (11) Complaints received by the board of medicine and investigations
14 and informal proceedings, including informal proceedings of any committee
15 of the board of medicine, pursuant to chapter 18, title 54, Idaho Code, and
16 rules adopted thereunder.

17 (12) Records of the department of health and welfare or a public health
18 district that identify a person infected with a reportable disease.

19 (13) Records of hospital care, medical records, including prescrip-
20 tions, drug orders, records or any other prescription information that
21 specifically identifies an individual patient, prescription records main-
22 tained by the board of pharmacy under sections 37-2726 and 37-2730A, Idaho
23 Code, records of psychiatric care or treatment and professional counseling
24 records relating to an individual's condition, diagnosis, care or treat-
25 ment, provided the provisions of this subsection making records exempt from
26 disclosure shall not apply to the extent that such records or information
27 contained in those records are necessary for a background check on an indi-
28 vidual that is required by federal law regulating the sale of firearms, guns
29 or ammunition.

30 (14) Information collected pursuant to the directory of new hires act,
31 chapter 16, title 72, Idaho Code.

32 (15) Personal information contained in motor vehicle and driver records
33 that is exempt from disclosure under the provisions of chapter 2, title 49,
34 Idaho Code.

35 (16) Records of the financial status of prisoners pursuant to subsec-
36 tion (2) of section 20-607, Idaho Code.

37 (17) Records of the Idaho state police or department of correction re-
38 ceived or maintained pursuant to section 19-5514, Idaho Code, relating to
39 DNA databases and databanks.

40 (18) Records of the department of health and welfare relating to a sur-
41 vey, resurvey or complaint investigation of a licensed nursing facility
42 shall be exempt from disclosure. Such records shall, however, be subject to
43 disclosure as public records as soon as the facility in question has received
44 the report, and no later than the fourteenth day following the date that
45 department of health and welfare representatives officially exit the facil-
46 ity pursuant to federal regulations. Provided however, that for purposes
47 of confidentiality, no record shall be released under this section which
48 specifically identifies any nursing facility resident.

49 (19) Records and information contained in the registry of immunizations
50 against childhood diseases maintained in the department of health and wel-

1 fare, including information disseminated to others from the registry by the
2 department of health and welfare.

3 (20) Records of the Idaho housing and finance association (IHFA) relat-
4 ing to the following:

5 (a) Records containing personal financial, family, health or similar
6 personal information submitted to or otherwise obtained by the IHFA;

7 (b) Records submitted to or otherwise obtained by the IHFA with regard
8 to obtaining and servicing mortgage loans and all records relating to
9 the review, approval or rejection by the IHFA of said loans;

10 (c) Mortgage portfolio loan documents;

11 (d) Records of a current or former employee other than the employee's
12 duration of employment with the association, position held and loca-
13 tion of employment. This exemption from disclosure does not include the
14 contracts of employment or any remuneration, including reimbursement
15 of expenses, of the executive director, executive officers or commis-
16 sioners of the association. All other personnel information relating
17 to an association employee or applicant including, but not limited to,
18 information regarding sex, race, marital status, birth date, home ad-
19 dress and telephone number, applications, testing and scoring materi-
20 als, grievances, correspondence, retirement plan information and per-
21 formance evaluations, shall not be disclosed to the public without the
22 employee's or applicant's written consent. An employee or authorized
23 representative may inspect and copy that employee's personnel records,
24 except for material used to screen and test for employment or material
25 not subject to disclosure elsewhere in the Idaho public records act.

26 (21) Records of the department of health and welfare related to child
27 support services in cases in which there is reasonable evidence of domestic
28 violence, as defined in chapter 63, title 39, Idaho Code, that can be used
29 to locate any individuals in the child support case except in response to a
30 court order.

31 (22) Records of the Idaho state bar lawyer assistance program pursuant
32 to chapter 49, title 54, Idaho Code, unless a participant in the program au-
33 thORIZES the release pursuant to ~~subsection (4) of~~ section 54-4901(4), Idaho
34 Code.

35 (23) Records and information contained in the trauma registry created
36 by chapter 20, title 57, Idaho Code, together with any reports, analyses and
37 compilations created from such information and records.

38 (24) Records contained in the court files, or other records prepared as
39 part of proceedings for judicial authorization of sterilization procedures
40 pursuant to chapter 39, title 39, Idaho Code.

41 (25) The physical voter registration card on file in the county clerk's
42 office; however, a redacted copy of said card shall be made available consis-
43 tent with the requirements of this section. Information from the voter reg-
44 istration card maintained in the statewide voter registration database, in-
45 cluding age, will be made available except for the voter's driver's license
46 number, date of birth and, upon a showing that the voter comes within the pro-
47 visions of subsection (30) of this section or upon showing of good cause by
48 the voter to the county clerk in consultation with the county prosecuting
49 attorney, the physical residence address of the voter. For the purposes of

1 this subsection, good cause shall include the protection of life and prop-
2 erty and protection of victims of domestic violence and similar crimes.

3 (26) File numbers, passwords and information in the files of the health
4 care directive registry maintained by the secretary of state under section
5 39-4515, Idaho Code, are confidential and shall not be disclosed to any per-
6 son other than to the person who executed the health care directive or the re-
7 vocation thereof and that person's legal representatives, to the person who
8 registered the health care directive or revocation thereof, and to physi-
9 cians, hospitals, medical personnel, nursing homes, and other persons who
10 have been granted file number and password access to the documents within
11 that specific file.

12 (27) Records in an address confidentiality program participant's file
13 as provided for in chapter 57, title 19, Idaho Code, other than the address
14 designated by the secretary of state, except under the following circum-
15 stances:

16 (a) If requested by a law enforcement agency, to the law enforcement
17 agency; or

18 (b) If directed by a court order, to a person identified in the order.

19 (28) Except as otherwise provided by law relating to the release of in-
20 formation to a governmental entity or law enforcement agency, any personal
21 information including, but not limited to, names, personal and business ad-
22 dresses and phone numbers, sex, height, weight, date of birth, social secu-
23 rity and driver's license numbers, or any other identifying numbers and/or
24 information related to any Idaho fish and game licenses, permits and tags un-
25 less written consent is obtained from the affected person.

26 (29) Documents and records related to continuing education and record-
27 keeping violations that are maintained by the Idaho board of veterinary
28 medicine under the provisions of section 54-2118(1) (b), Idaho Code, pro-
29 vided the requirements set forth therein are met.

30 (30) The Idaho residential street address and telephone number of an
31 eligible law enforcement officer and such officer's residing household mem-
32 ber(s) as provided for in chapter 58, title 19, Idaho Code, except under the
33 following circumstances:

34 (a) If directed by a court order, to a person identified in the court
35 order;

36 (b) If requested by a law enforcement agency, to the law enforcement
37 agency;

38 (c) If requested by a financial institution or title company for busi-
39 ness purposes, to the requesting financial institution or title com-
40 pany; or

41 (d) If the law enforcement officer provides written permission for dis-
42 closure of such information.

43 (31) All information exchanged between the Idaho transportation de-
44 partment and insurance companies, any database created, all information
45 contained in the verification system and all reports, responses or other
46 information generated for the purposes of the verification system, pursuant
47 to section 49-1234, Idaho Code.

48 (32) Nothing in this section shall prohibit the release of information
49 to the state controller as the state social security administrator as pro-
50 vided in section 59-1101A, Idaho Code.

1 (33) Personal information including, but not limited to, property val-
2 ues, personal and business addresses, phone numbers, dates of birth, social
3 security and driver's license numbers or any other identifying numbers or
4 information maintained by the administrator of the unclaimed property law
5 set forth in chapter 5, title 14, Idaho Code. Nothing in this subsection
6 shall prohibit the release of names, last known city of residence, property
7 value ranges and general property information by the administrator for the
8 purpose of reuniting unclaimed property with its owner.

9 (34) Any cellular telephone number or electronic mailing address con-
10 tained in a record that is filed with the secretary of state's office pur-
11 suant to title 34 or chapter 66, title 67, Idaho Code.