

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 447, As Amended in the Senate

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO PUBLIC RECORDS; AMENDING SECTION 74-105, IDAHO CODE, TO PROVIDE
2 THAT RECORDS RELATED TO PROPOSED OR EXISTING CRITICAL INFRASTRUCTURE
3 HELD BY OR IN THE CUSTODY OF ANY PUBLIC AGENCY SHALL BE EXEMPT FROM DIS-
4 CLOSURE, TO REVISE A DEFINITION AND PROVIDE A DEFINITION; AND DECLARING
5 AN EMERGENCY.
6

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

8 SECTION 1. That Section 74-105, Idaho Code, be, and the same is hereby
9 amended to read as follows:

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

13 (1) Investigatory records of a law enforcement agency, as defined in
14 section 74-101(7), Idaho Code, under the conditions set forth in section
15 74-124, Idaho Code.

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

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

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

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

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

41 (iii) Records that reflect future transportation or movement of a
42 prisoner;

1 (iv) Records gathered during the course of the presentence inves-
2 tigation;

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

6 (b) ~~Records of buildings, facilities, infrastructures and systems,~~
7 ~~other than public expenditure records, related to proposed or exist-~~
8 ~~ing critical infrastructure held by or in the custody of any public~~
9 ~~agency only when the disclosure of such information would~~ is reason-
10 ably likely to jeopardize the safety of persons, property or the public
11 safety. Such records may include emergency evacuation, escape or other
12 emergency response plans, vulnerability assessments, operation and
13 security manuals, plans, blueprints or security codes. For purposes
14 of this section "system" shall mean includes electrical, computer and
15 telecommunication systems, electric power, (including production,
16 generating, transportation, transmission and distribution), heat-
17 ing, ventilation, and air conditioning and telecommunication systems.
18 For purposes of this subsection, "critical infrastructure" means any
19 system or asset, whether physical or virtual, so vital to the state of
20 Idaho, including its political subdivisions, that the incapacity or
21 destruction of such system or asset would have a debilitating impact on
22 state or national economic security, state or national public health or
23 safety or any combination of those matters.

24 (c) Records of the commission of pardons and parole shall be exempt from
25 public disclosure pursuant to section 20-213A, Idaho Code, and section
26 20-223, Idaho Code. Records exempt from disclosure shall also include
27 those containing the names, addresses and written statements of vic-
28 tims.

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

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

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

1 ties dealing with the protection of children except any such records regard-
2 ing adoptions shall remain exempt from disclosure.

3 (8) Records including, but not limited to, investigative reports,
4 resulting 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) The worker's compensation records of the Idaho industrial commis-
19 sion provided that the industrial commission shall make such records avail-
20 able:

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

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

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

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

38 (e) Although a claimant's records maintained by the industrial commis-
39 sion, including medical and rehabilitation records, are otherwise ex-
40 empt from public disclosure, the quoting or discussing of medical or re-
41 habilitation records contained in the industrial commission's records
42 during a hearing for compensation or in a written decision issued by the
43 industrial commission shall be permitted; provided further, the true
44 identification of the parties shall not be exempt from public disclo-
45 sure in any written decision issued and released to the public by the in-
46 dustrial commission.

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

1 (12) Criminal history records and fingerprints, as defined by section
2 67-3001, Idaho Code, and compiled by the Idaho state police. Such records
3 shall be released only in accordance with chapter 30, title 67, Idaho Code.

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

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

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

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

18 SECTION 2. An emergency existing therefor, which emergency is hereby
19 declared to exist, this act shall be in full force and effect on and after its
20 passage and approval.