

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 29

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE SEXUAL OFFENDER CLASSIFICATION BOARD; AMENDING SECTION
2 74-105, IDAHO CODE, TO PROVIDE THAT VOTING RECORDS OF THE FORMER SEX-
3 UAL OFFENDER CLASSIFICATION BOARD SHALL BE EXEMPT FROM DISCLOSURE;
4 AMENDING SECTION 18-8314, IDAHO CODE, TO AUTHORIZE THE SEXUAL OFFENDER
5 MANAGEMENT BOARD TO MANAGE AND MAINTAIN THE RECORDS OF THE FORMER SEXUAL
6 OFFENDER CLASSIFICATION BOARD AND TO MAKE TECHNICAL CORRECTIONS; AND
7 DECLARING AN EMERGENCY.
8

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

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

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

15 (1) Investigatory records of a law enforcement agency, as defined in
16 section 74-101(7), Idaho Code, under the conditions set forth in section
17 74-124, Idaho Code.

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

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

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

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

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

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

3 (iv) Records gathered during the course of the presentence inves-
4 tigation;

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

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

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

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

38 (6) Records of the sheriff or Idaho state police received or maintained
39 pursuant to sections 18-3302, 18-3302H and 18-3302K, Idaho Code, relating
40 to an applicant or licensee except that any law enforcement officer and law
41 enforcement agency, whether inside or outside the state of Idaho, may access
42 information maintained in the license record system as set forth in section
43 18-3302K(16), Idaho Code.

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

1 the department of health and welfare pursuant to its statutory responsibilities
2 dealing with the protection of children except any such records regard-
3 ing adoptions shall remain exempt from disclosure.

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

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

19 (10) The worker's compensation records of the Idaho industrial commis-
20 sion provided that the industrial commission shall make such records avail-
21 able:

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

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

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

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

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

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

1 (12) Criminal history records and fingerprints, as defined in 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 (17) Records of any certification or notification required by federal
19 law to be made in connection with the acquisition or transfer of a firearm,
20 including a firearm as defined in 26 U.S.C. 5845(a).

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

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

28 (b) Records related to the administration of the extraordinary litiga-
29 tion fund by the state public defense commission, pursuant to section
30 19-850(2)(e), Idaho Code, to the extent that such records contain in-
31 formation protected or exempted from disclosure under rules adopted
32 by the Idaho supreme court, attorney work product or attorney-client
33 privileged communication. This exemption does not include the amount
34 awarded based upon an application for extraordinary litigation funds.

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

49 SECTION 2. That Section 18-8314, Idaho Code, be, and the same is hereby
50 amended to read as follows:

1 18-8314. POWERS AND DUTIES OF THE SEXUAL OFFENDER MANAGEMENT
2 BOARD. (1) The board shall develop, advance and oversee sound sexual of-
3 fender management policies and practices statewide as demonstrated by
4 evidence-based best practices.

5 (2) The board shall carry out the following duties:

6 (a) Establish standards for psychosexual evaluations performed pur-
7 suant to section 18-8316, Idaho Code, and sexual offender treatment
8 programs based on current and evolving best practices.

9 (b) Establish qualifications, set forth procedures for approval and
10 certification, and administer the certification process for:

11 (i) Professionals conducting psychosexual evaluations pursuant
12 to section 18-8316, Idaho Code, or adjudication proceedings on ju-
13 venile sexual offenders;

14 (ii) Professionals providing treatment to adult or juvenile sex-
15 ual offenders as ordered or required by the court, the Idaho de-
16 partment of correction, the Idaho commission of pardons and pa-
17 role, or the Idaho department of juvenile corrections; and

18 (iii) Professionals conducting post-conviction sexual offender
19 polygraphs as ordered or required by the court, the Idaho depart-
20 ment of correction, or the Idaho commission of pardons and parole.

21 (c) Establish a nonrefundable processing fee not to exceed one hundred
22 fifty dollars (\$150) for each initial certification and a nonrefundable
23 processing fee not to exceed one hundred fifty dollars (\$150) for each
24 annual recertification.

25 (d) Set forth and administer procedures for quality assurance of the
26 standards and qualifications established in this section.

27 (e) The board shall have authority to deny, revoke, restrict or suspend
28 a certification if standards or qualifications are not met or to other-
29 wise monitor a provider.

30 (f) Establish and implement standard protocols for sexual offender
31 management, assessment and classification based on current and evol-
32 ving best practices.

33 (g) Manage and maintain the records of the former sexual offender clas-
34 sification board.

35 (3) The board shall have authority to promulgate rules to carry out the
36 provisions of this chapter.

37 SECTION 3. An emergency existing therefor, which emergency is hereby
38 declared to exist, this act shall be in full force and effect on and after its
39 passage and approval.