

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 432

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE CRIMINAL JUSTICE INTEGRATED DATA SYSTEM ACT; AMENDING TITLE
2 19, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 48, TITLE 19, IDAHO
3 CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO ESTAB-
4 LISH THE CRIMINAL JUSTICE INTEGRATED DATA SYSTEM, TO PROVIDE CERTAIN
5 POWERS FOR THE STATE CONTROLLER, TO PROVIDE THAT CERTAIN RECORDS SHALL
6 BE EXEMPT FROM DISCLOSURE, TO ESTABLISH THE DATA OVERSIGHT COUNCIL, TO
7 PROVIDE FOR MEMBERSHIP OF THE COUNCIL, TO PROVIDE CERTAIN PROCEDURES
8 AND REQUIREMENTS FOR THE COUNCIL AND STATE CONTROLLER, AND TO PROVIDE
9 IMMUNITY FOR CERTAIN PERSONS; AND AMENDING SECTION 74-105, IDAHO CODE,
10 TO PROVIDE THAT CERTAIN RECORDS OF THE CRIMINAL JUSTICE INTEGRATED DATA
11 SYSTEM SHALL BE EXEMPT FROM DISCLOSURE.
12

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

14 SECTION 1. That Title 19, Idaho Code, be, and the same is hereby amended
15 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
16 ter 48, Title 19, Idaho Code, and to read as follows:

17 CHAPTER 48

18 CRIMINAL JUSTICE INTEGRATED DATA SYSTEM ACT

19 19-4801. SHORT TITLE. This chapter shall be known and may be cited as
20 the "Criminal Justice Integrated Data System Act."

21 19-4802. LEGISLATIVE INTENT. The local governments and state agencies
22 and departments that comprise and interact with the criminal justice sys-
23 tem in Idaho possess a wealth of data. A centralized data repository to man-
24 age and link data across separate entities will aid in evaluating the effec-
25 tiveness of the criminal justice system and enable data-driven, cost-sav-
26 ing decision-making on issues facing the criminal justice system in Idaho.
27 The Criminal Justice Integrated Data System establishes the legal framework
28 by which the various contributing entities may share, integrate, merge, ob-
29 serve, examine, and research siloed data in a way that protects sensitive or
30 legally protected personal information.

31 19-4803. CRIMINAL JUSTICE INTEGRATED DATA SYSTEM. (1) There is hereby
32 created in the office of the state controller the criminal justice inte-
33 grated data system to receive, store, secure, and maintain data and infor-
34 mation from local governments, state agencies and departments, or volunteer
35 nongovernmental entities.

36 (2) The office of the state controller, as the managing agency of the
37 criminal justice integrated data system, may:

38 (a) Require contributing local governments, state agencies and depart-
39 ments, or volunteer nongovernmental entities to deliver data and infor-

1 mation in a certain format and on schedules established for the criminal
2 justice integrated data system; and

3 (b) Enter into or adopt a memorandum of understanding with each con-
4 tributing local government, state agency and department, or volunteer
5 nongovernmental entity, and such memorandum must identify the confi-
6 dentiality of the information and any conditions or restrictions on the
7 use of the data or information.

8 (3) The records and data collected and stored by the criminal justice
9 integrated data system shall be exempt from disclosure as set forth in sec-
10 tion 74-105(19), Idaho Code. The confidentiality of all records and data
11 collected by the criminal justice integrated data system shall comply with
12 applicable state and federal laws governing the privacy of records, data,
13 and personal identifiable information.

14 19-4804. DATA OVERSIGHT COUNCIL. (1) There is hereby created in the
15 office of the state controller the data oversight council. All requests for
16 projects, reports, and data analyses generated from the criminal justice in-
17 tegrated data system must be approved by the data oversight council.

18 (2) The data oversight council shall be comprised of:

19 (a) The governor or his designee;

20 (b) The chief justice of the Idaho supreme court or his designee;

21 (c) The attorney general or his designee;

22 (d) The state controller or his designee;

23 (e) The director of the department of correction or his designee;

24 (f) The executive director of the commission of pardons and parole or
25 his designee;

26 (g) The director of the department of juvenile corrections or his de-
27 signee;

28 (h) The director of the department of health and welfare or his de-
29 signee;

30 (i) The director of the Idaho state police or his designee;

31 (j) The administrator of the office of information technology services
32 or his designee; and

33 (k) A designee from the state department of education selected by the
34 governor.

35 (3) Any designee under subsection (2) of this section must be an em-
36 ployee in the office, agency, or department of his respective designating
37 authority. Members of the data oversight council shall serve without any ad-
38 ditional compensation or honorarium.

39 (4) The data oversight council, by majority vote, shall elect a chair-
40 man among its members who shall serve a term of two (2) years while serving on
41 the council.

42 (5) All meetings of the data oversight council shall be held in com-
43 pliance with the open meetings law as provided in chapter 2, title 74, Idaho
44 Code.

45 (6) The state controller shall work in collaboration with the data
46 oversight council to manage the criminal justice integrated data system. It
47 shall be the duty of the state controller, in conjunction with the data over-
48 sight council, to assure confidentiality of all records and data collected
49 by the criminal justice integrated data system and to assure compliance

1 with applicable state and federal laws and rules governing the privacy of
2 records, data, and personal identifiable information.

3 (7) Any projects, reports, or data analyses in final form produced by
4 persons authorized to conduct research and analyses under this chapter shall
5 belong to the local government, state agency and department, or volunteer
6 nongovernmental entity that requests or creates the report and not the of-
7 fice of the state controller.

8 (8) The contributing local governments, state agencies and depart-
9 ments, or volunteer nongovernmental entities shall have priority in re-
10 questing any projects, reports, or data analyses to be produced by persons
11 authorized by the data oversight council. The data oversight council may, in
12 its discretion, deny any requested project, report, or data analysis where
13 it determines the request is unduly burdensome, voluminous, or cost-pro-
14 hibitive.

15 (9) The office of the state controller, members of the data oversight
16 council, and all contributing local governments, state agencies and depart-
17 ments, or volunteer nongovernmental entities shall be immune from liability
18 to any person or entity for any invasion of the right to privacy or use of
19 records or data generated by the criminal justice integrated data system.

20 (10) In collaboration with contributing local governments, state agen-
21 cies and departments, or volunteer nongovernmental entities and the data
22 oversight council, the state controller may establish policies addressing
23 the creation of reports generated through the query of records and data pos-
24 sessed by the criminal justice integrated data system.

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

27 74-105. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS,
28 INVESTIGATORY RECORDS OF AGENCIES, EVACUATION AND EMERGENCY RESPONSE PLANS,
29 WORKER'S COMPENSATION. The following records are exempt from disclosure:

30 (1) Investigatory records of a law enforcement agency, as defined in
31 section 74-101(7), Idaho Code, under the conditions set forth in section
32 74-124, Idaho Code.

33 (2) Juvenile records of a person maintained pursuant to chapter 5,
34 title 20, Idaho Code, except that facts contained in such records shall be
35 furnished upon request in a manner determined by the court to persons and
36 governmental and private agencies and institutions conducting pertinent
37 research studies or having a legitimate interest in the protection, welfare
38 and treatment of the juvenile who is thirteen (13) years of age or younger.
39 If the juvenile is petitioned or charged with an offense which would be a
40 criminal offense if committed by an adult, the name, offense of which the
41 juvenile was petitioned or charged and disposition of the court shall be sub-
42 ject to disclosure as provided in section 20-525, Idaho Code. Additionally,
43 facts contained in any records of a juvenile maintained under chapter 5,
44 title 20, Idaho Code, shall be furnished upon request to any school district
45 where the juvenile is enrolled or is seeking enrollment.

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

- 1 (4) (a) The following records of the department of correction:
2 (i) Records of which the public interest in confidentiality, pub-
3 lic safety, security and habilitation clearly outweighs the pub-
4 lic interest in disclosure as identified pursuant to the authority
5 of the Idaho board of correction under section 20-212, Idaho Code;
6 (ii) Records that contain any identifying information, or any in-
7 formation that would lead to the identification of any victims or
8 witnesses;
9 (iii) Records that reflect future transportation or movement of a
10 prisoner;
11 (iv) Records gathered during the course of the presentence inves-
12 tigation;
13 (v) Records of a prisoner, as defined in section 74-101(10),
14 Idaho Code, or probationer shall not be disclosed to any other
15 prisoner or probationer.

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

33 (c) Records of the commission of pardons and parole shall be exempt from
34 public disclosure pursuant to section 20-213A, Idaho Code, and section
35 20-223, Idaho Code. Records exempt from disclosure shall also include
36 those containing the names, addresses and written statements of vic-
37 tims.

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

45 (6) Records of the sheriff or Idaho state police received or maintained
46 pursuant to sections 18-3302, 18-3302H and 18-3302K, Idaho Code, relating
47 to an applicant or licensee except that any law enforcement officer and law
48 enforcement agency, whether inside or outside the state of Idaho, may access
49 information maintained in the license record system as set forth in section
50 18-3302K(16), Idaho Code.

1 (7) Records of investigations prepared by the department of health and
2 welfare pursuant to its statutory responsibilities dealing with the protec-
3 tion of children, the rehabilitation of youth, adoptions and the commitment
4 of mentally ill persons. For reasons of health and safety, best interests of
5 the child or public interest, the department of health and welfare may pro-
6 vide for the disclosure of records of investigations associated with actions
7 pursuant to the provisions of chapter 16, title 16, Idaho Code, prepared by
8 the department of health and welfare pursuant to its statutory responsibili-
9 ties dealing with the protection of children except any such records regard-
10 ing adoptions shall remain exempt from disclosure.

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

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

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

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

31 (b) To employers and prospective employers subject to the provisions of
32 the Americans with disabilities act, 42 U.S.C. 12112, or other statu-
33 tory limitations, who certify that the information is being requested
34 with respect to a worker to whom the employer has extended an offer of
35 employment and will be used in accordance with the provisions of the
36 Americans with disabilities act, 42 U.S.C. 12112, or other statutory
37 limitations; or

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

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

46 (e) Although a claimant's records maintained by the industrial commis-
47 sion, including medical and rehabilitation records, are otherwise ex-
48 empt from public disclosure, the quoting or discussing of medical or re-
49 habilitation records contained in the industrial commission's records
50 during a hearing for compensation or in a written decision issued by the

1 industrial commission shall be permitted; provided further, the true
2 identification of the parties shall not be exempt from public disclo-
3 sure in any written decision issued and released to the public by the in-
4 dustrial commission.

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

8 (12) Criminal history records and fingerprints, as defined by section
9 67-3001, Idaho Code, and compiled by the Idaho state police. Such records
10 shall be released only in accordance with chapter 30, title 67, Idaho Code.

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

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

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

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

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

28 (18) Records related to the administration of the extraordinary lit-
29 igation fund by the state public defense commission, pursuant to section
30 19-850(2)(e), Idaho Code, to the extent that such records contain informa-
31 tion protected by, or exempted from disclosure by, or under rules adopted by
32 the Idaho supreme court, attorney work product or as attorney-client priv-
33 ileged communication. This exemption does not include the amount awarded
34 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.