

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 320

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO THE CRIMINAL JUSTICE INTEGRATED DATA SYSTEM ACT; AMENDING TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 48, TITLE 19, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO ESTABLISH THE CRIMINAL JUSTICE INTEGRATED DATA SYSTEM, TO PROVIDE CERTAIN POWERS FOR THE STATE CONTROLLER, TO PROVIDE THAT CERTAIN RECORDS SHALL BE EXEMPT FROM DISCLOSURE, TO ESTABLISH THE DATA OVERSIGHT COUNCIL, TO PROVIDE FOR MEMBERSHIP OF THE COUNCIL, TO PROVIDE CERTAIN PROCEDURES AND REQUIREMENTS FOR THE COUNCIL AND STATE CONTROLLER, AND TO PROVIDE IMMUNITY FOR CERTAIN PERSONS; AND AMENDING SECTION 74-105, IDAHO CODE, TO PROVIDE THAT CERTAIN RECORDS OF THE CRIMINAL JUSTICE INTEGRATED DATA SYSTEM SHALL BE EXEMPT FROM DISCLOSURE.

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

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

CHAPTER 48  
CRIMINAL JUSTICE INTEGRATED DATA SYSTEM ACT

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

19-4802. LEGISLATIVE INTENT. The local, state, and federal agencies and departments that comprise and interact with the criminal justice system in Idaho possess a wealth of data. A centralized data repository to manage and link data across separate entities will aid in evaluating the effectiveness of the criminal justice system and enable data-driven, cost-saving decision-making on issues facing the criminal justice system in Idaho. The Criminal Justice Integrated Data System establishes the legal framework by which the various criminal justice agencies and departments may share, integrate, merge, observe, examine, and research siloed data in a way that protects sensitive or legally protected personal information.

19-4803. CRIMINAL JUSTICE INTEGRATED DATA SYSTEM. (1) There is hereby created in the office of the state controller the criminal justice integrated data system to receive, store, secure, and maintain data and information from local, state, and federal agencies, departments, or other nongovernmental entities.

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

1 (a) Require contributing agencies, departments, or entities to deliver  
2 data and information in a certain format and on schedules established  
3 for the criminal justice integrated data system; and

4 (b) Enter into or adopt a memorandum of understanding with each con-  
5 tributing agency, department, or entity, and such memorandum must iden-  
6 tify the confidentiality of the information and any conditions or re-  
7 strictions on the 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 agency, department, or entity that requests or creates the re-  
6 port and not the office of the state controller.

7 (8) The contributing agencies, departments, or entities shall have  
8 priority in requesting any projects, reports, or data analyses to be pro-  
9 duced by persons authorized by the data oversight council. The data over-  
10 sight council may, in its discretion, deny any requested project, report, or  
11 data analysis where it determines the request is unduly burdensome, volumi-  
12 nous, or cost-prohibitive.

13 (9) The office of the state controller, members of the data oversight  
14 council, and all contributing agencies, departments, or entities shall be  
15 immune from liability to any person or entity for any invasion of the right  
16 to privacy or use of records or data generated by the criminal justice inte-  
17 grated data system.

18 (10) In collaboration with contributing agencies, departments, or en-  
19 tities and the data oversight council, the state controller may establish  
20 policies addressing the creation of reports generated through the query of  
21 records and data possessed by the criminal justice integrated data system.

22 (11) The data oversight council may begin meeting immediately upon the  
23 effective date of this chapter, and the council may draft policies and mem-  
24 orandums of understanding with contributing agencies, none of which can be  
25 effective or of any force or effect until on or after September 1, 2020.

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

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

31 (1) Investigatory records of a law enforcement agency, as defined in  
32 section 74-101(7), Idaho Code, under the conditions set forth in section  
33 74-124, Idaho Code.

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

47 (3) Records of the custody review board of the Idaho department of ju-  
48 venile corrections, including records containing the names, addresses and

1 written statements of victims and family members of juveniles, shall be ex-  
2 empt from public disclosure pursuant to section 20-533A, Idaho Code.

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

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

8 (ii) Records that contain any identifying information, or any in-  
9 formation that would lead to the identification of any victims or  
10 witnesses;

11 (iii) Records that reflect future transportation or movement of a  
12 prisoner;

13 (iv) Records gathered during the course of the presentence inves-  
14 tigation;

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

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

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

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

47 (6) Records of the sheriff or Idaho state police received or maintained  
48 pursuant to sections 18-3302, 18-3302H and 18-3302K, Idaho Code, relating  
49 to an applicant or licensee except that any law enforcement officer and law  
50 enforcement agency, whether inside or outside the state of Idaho, may access

1 information maintained in the license record system as set forth in section  
2 18-3302K(16), Idaho Code.

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

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

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

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

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

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

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

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

48 (e) Although a claimant's records maintained by the industrial commis-  
49 sion, including medical and rehabilitation records, are otherwise ex-  
50 empt from public disclosure, the quoting or discussing of medical or re-

1           habilitation records contained in the industrial commission's records  
2           during a hearing for compensation or in a written decision issued by the  
3           industrial commission shall be permitted; provided further, the true  
4           identification of the parties shall not be exempt from public disclo-  
5           sure in any written decision issued and released to the public by the in-  
6           dustrial commission.

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

10          (12) Criminal history records and fingerprints, as defined by section  
11          67-3001, Idaho Code, and compiled by the Idaho state police. Such records  
12          shall be released only in accordance with chapter 30, title 67, Idaho Code.

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

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

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

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

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

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

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