

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 203

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE SECRETARY OF STATE; AMENDING CHAPTER 9, TITLE 67, IDAHO CODE,
2 BY THE ADDITION OF A NEW SECTION 67-906, IDAHO CODE, TO AUTHORIZE THE
3 SECRETARY OF STATE TO CREATE A STATEWIDE ELECTRONIC FILING SYSTEM FOR
4 RECORDS REQUIRED TO BE FILED WITH THE OFFICE OF THE SECRETARY OF STATE;
5 AND AMENDING SECTION 74-106, IDAHO CODE, TO EXEMPT FROM THE PUBLIC
6 RECORDS LAW THE DISCLOSURE OF CERTAIN PERSONAL INFORMATION OF A USER OF
7 THE SECRETARY OF STATE'S STATEWIDE ELECTRONIC FILING SYSTEM.
8

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

10 SECTION 1. That Chapter 9, Title 67, Idaho Code, be, and the same is
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
12 ignated as Section 67-906, Idaho Code, and to read as follows:

13 67-906. ELECTRONIC FILING SYSTEM -- REQUIREMENTS -- RULES. (1) The
14 secretary of state may develop and implement a statewide electronic filing
15 system to accommodate the electronic filing of records and documents that
16 are required to be filed in the office of the secretary of state. If the sec-
17 retary of state develops and implements a statewide electronic filing system
18 under this section:

19 (a) The secretary of state shall establish a central database for all
20 records and documents filed electronically with the secretary of state;

21 (b) The secretary of state may require users of the system to provide
22 personal information, such as a user email address, physical address,
23 or phone number, in order for the user to create an account from which
24 the user can access the statewide electronic filing system. Such per-
25 sonal information gathered by the secretary of state for user account
26 purposes shall be exempt from public disclosure as outlined in section
27 74-106(34), Idaho Code;

28 (c) The secretary of state may adopt rules that:

29 (i) Provide procedures for entering data;

30 (ii) Provide security and protection of information in the system
31 and monitor the database and other components of the system to en-
32 sure that unauthorized entry is prevented;

33 (iii) Require standardized information for entry into the system;

34 (iv) Prescribe an identification procedure for a person filing
35 records or other documents or otherwise accessing the system; and

36 (v) Require each individual who is required to sign a document
37 that is filed electronically to be specifically identified as ac-
38 knowledging the document and giving assent to the electronic fil-
39 ing through an identification procedure unique to that individ-
40 ual.

41 (d) All records filed and recorded in the statewide electronic filing
42 system are subject to the same requirements as if those records had been

1 filed in paper form, subject to the provisions of the uniform electronic
2 transactions act, chapter 50, title 28, Idaho Code.

3 (2) All persons filing records in any type of electronic filing sys-
4 tem established by the secretary of state are subject to the same civil and
5 criminal penalties applicable to a person who would otherwise file the same
6 record in a nonelectronic format.

7 SECTION 2. That Section 74-106, Idaho Code, be, and the same is hereby
8 amended to read as follows:

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

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

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

37 (3) Information and records submitted to the Idaho state lottery for
38 the performance of background investigations of employees, lottery retail-
39 ers and major procurement contractors; audit records of lottery retailers,
40 vendors and major procurement contractors submitted to or performed by the
41 Idaho state lottery; validation and security tests of the state lottery for
42 lottery games; business records and information submitted pursuant to sec-
43 tions 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such docu-
44 ments and information obtained and held for the purposes of lottery security
45 and investigative action as determined by lottery rules unless the public
46 interest in disclosure substantially outweighs the private need for protec-
47 tion from public disclosure.

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

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

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

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

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

11 (e) Vital statistics records; and

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

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

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

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

43 (8) Any personal records, other than names, business addresses and
44 business phone numbers, such as parentage, race, religion, sex, height,
45 weight, tax identification and social security numbers, financial worth or
46 medical condition submitted to any public agency or independent public body
47 corporate and politic pursuant to a statutory requirement for licensing,
48 certification, permit or bonding.

49 (9) Unless otherwise provided by agency rule, information obtained as
50 part of an inquiry into a person's fitness to be granted or retain a license,

1 certificate, permit, privilege, commission or position, private associa-
2 tion peer review committee records authorized in title 54, Idaho Code. Any
3 agency which has records exempt from disclosure under the provisions of this
4 subsection shall annually make available a statistical summary of the number
5 and types of matters considered and their disposition.

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

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

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

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

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

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

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

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

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

44 (19) Records and information contained in the registry of immunizations
45 against childhood diseases maintained in the department of health and wel-
46 fare, including information disseminated to others from the registry by the
47 department of health and welfare.

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

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

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

6 (c) Mortgage portfolio loan documents;

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

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

27 (22) Records of the Idaho state bar lawyer assistance program pursuant
28 to chapter 49, title 54, Idaho Code, unless a participant in the program au-
29 thORIZES the release pursuant to subsection (4) of section 54-4901, Idaho
30 Code.

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

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

37 (25) The physical voter registration application on file in the county
38 clerk's office; however, a redacted copy of said application shall be made
39 available consistent with the requirements of this section. Information
40 from the voter registration application maintained in the statewide voter
41 registration database, including age, will be made available except for
42 the voter's driver's license number, date of birth and, upon a showing that
43 the voter comes within the provisions of subsection (30) of this section or
44 upon showing of good cause by the voter to the county clerk in consultation
45 with the county prosecuting attorney, the physical residence address of the
46 voter. For the purposes of this subsection good cause shall include the pro-
47 tection of life and property and protection of victims of domestic violence
48 and similar crimes.

49 (26) File numbers, passwords and information in the files of the health
50 care directive registry maintained by the secretary of state under section

1 39-4515, Idaho Code, are confidential and shall not be disclosed to any per-
2 son other than to the person who executed the health care directive or the re-
3 vocation thereof and that person's legal representatives, to the person who
4 registered the health care directive or revocation thereof, and to physi-
5 cians, hospitals, medical personnel, nursing homes, and other persons who
6 have been granted file number and password access to the documents within
7 that specific file.

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

12 (a) If requested by a law enforcement agency, to the law enforcement
13 agency; or

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

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

22 (29) Documents and records related to alternatives to discipline that
23 are maintained by the Idaho board of veterinary medicine under the provi-
24 sions of section 54-2118(1)(b), Idaho Code, provided the requirements set
25 forth therein are met.

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

30 (a) If directed by a court order, to a person identified in the court
31 order;

32 (b) If requested by a law enforcement agency, to the law enforcement
33 agency;

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

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

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

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

47 (33) Personal information including, but not limited to, property val-
48 ues, personal and business addresses, phone numbers, dates of birth, social
49 security and driver's license numbers or any other identifying numbers or
50 information maintained by the administrator of the unclaimed property law

1 set forth in chapter 5, title 14, Idaho Code. Nothing in this subsection
2 shall prohibit the release of names, last known city of residence, property
3 value ranges and general property information by the administrator for the
4 purpose of reuniting unclaimed property with its owner.

5 (34) Any personal information collected by the secretary of state, pur-
6 suant to section 67-906(1) (b), Idaho Code, for the purpose of allowing indi-
7 viduals to access the statewide electronic filing system authorized in sec-
8 tion 67-906, Idaho Code.