

IN THE SENATE

SENATE BILL NO. 1255

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO RECORDS EXEMPT FROM DISCLOSURE; AMENDING SECTION 9-340B, IDAHO
2 CODE, TO PROVIDE THAT RECORDS OF INVESTIGATIONS PREPARED BY THE DEPART-
3 MENT OF HEALTH AND WELFARE PURSUANT TO ITS STATUTORY RESPONSIBILITIES
4 DEALING WITH THE PROTECTION OF CHILDREN, THE REHABILITATION OF YOUTH,
5 ADOPTIONS AND THE COMMITMENT OF MENTALLY ILL PERSONS SHALL BE EXEMPT
6 FROM DISCLOSURE UNLESS OTHERWISE PROVIDED BY AGENCY RULE; AND DECLARING
7 AN EMERGENCY.
8

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

10 SECTION 1. That Section 9-340B, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 9-340B. 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 9-337(7), Idaho Code, under the conditions set forth in section
17 9-335, 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 9-337(10), Idaho
6 Code, or probationer shall not be disclosed to any other prisoner
7 or probationer.

8 (b) Records of buildings, facilities, infrastructures and systems held
9 by or in the custody of any public agency only when the disclosure of
10 such information would jeopardize the safety of persons or the public
11 safety. Such records may include emergency evacuation, escape or other
12 emergency response plans, vulnerability assessments, operation and se-
13 curity manuals, plans, blueprints or security codes. For purposes of
14 this section "system" shall mean electrical, heating, ventilation, air
15 conditioning and telecommunication systems.

16 (c) Records of the commission of pardons and parole shall be exempt from
17 public disclosure pursuant to section 20-213A, Idaho Code, and section
18 20-223, Idaho Code. Records exempt from disclosure shall also include
19 those containing the names, addresses and written statements of vic-
20 tims.

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

28 (6) Records of the sheriff or Idaho state police received or maintained
29 pursuant to sections 18-3302 and 18-3302H, Idaho Code, relating to an appli-
30 cant or licensee.

31 (7) Unless otherwise provided by agency rule, Records of investiga-
32 tions prepared by the department of health and welfare pursuant to its statu-
33 tory responsibilities dealing with the protection of children, the rehabil-
34 itation of youth, adoptions and the commitment of mentally ill persons.

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

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

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

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

6 (b) To employers and prospective employers subject to the provisions of
7 the Americans with disabilities act, 42 U.S.C. 12112, or other statu-
8 tory limitations, who certify that the information is being requested
9 with respect to a worker to whom the employer has extended an offer of
10 employment and will be used in accordance with the provisions of the
11 Americans with disabilities act, 42 U.S.C. 12112, or other statutory
12 limitations; or

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

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

21 (e) Although a claimant's records maintained by the industrial commis-
22 sion, including medical and rehabilitation records, are otherwise ex-
23 empt from public disclosure, the quoting or discussing of medical or re-
24 habilitation records contained in the industrial commission's records
25 during a hearing for compensation or in a written decision issued by the
26 industrial commission shall be permitted; provided further, the true
27 identification of the parties shall not be exempt from public disclo-
28 sure in any written decision issued and released to the public by the in-
29 dustrial commission.

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

33 (12) Criminal history records and fingerprints, as defined by section
34 67-3001, Idaho Code, and compiled by the Idaho state police. Such records
35 shall be released only in accordance with chapter 30, title 67, Idaho Code.

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

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

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

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

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