

IN THE SENATE

SENATE BILL NO. 1351

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO PUBLIC HEALTH RECORDS; AMENDING SECTION 74-106, IDAHO CODE, TO
2 ESTABLISH PROVISIONS REGARDING EXCEPTIONS FOR RESEARCH AND STATISTICAL
3 ANALYSIS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
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5 Be It Enacted by the Legislature of the State of Idaho:

6 SECTION 1. That Section 74-106, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 74-106. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PER-
9 SONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following
10 records are exempt from disclosure:

11 (1) Except as provided in this subsection, all personnel records of
12 a current or former public official other than the public official's pub-
13 lic service or employment history, classification, pay grade and step,
14 longevity, gross salary and salary history, including bonuses, severance
15 packages, other compensation or vouchered and unvouchered expenses for
16 which reimbursement was paid, status, workplace and employing agency. All
17 other personnel information relating to a public employee or applicant
18 including, but not limited to, information regarding sex, race, marital
19 status, birth date, home address and telephone number, social security num-
20 ber, driver's license number, applications, testing and scoring materials,
21 grievances, correspondence and performance evaluations, shall not be dis-
22 closed to the public without the employee's or applicant's written consent.
23 Names of applicants to classified or merit system positions shall not be dis-
24 closed to the public without the applicant's written consent. Disclosure of
25 names as part of a background check is permitted. Names of the five (5) final
26 applicants to all other positions shall be available to the public. If such
27 group is less than five (5) finalists, then the entire list of applicants
28 shall be available to the public. A public official or authorized represen-
29 tative may inspect and copy his personnel records, except for material used
30 to screen and test for employment.

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

39 (3) Information and records submitted to the Idaho state lottery for
40 the performance of background investigations of employees, lottery retail-
41 ers and major procurement contractors; audit records of lottery retailers,
42 vendors and major procurement contractors submitted to or performed by the

1 Idaho state lottery; validation and security tests of the state lottery for
2 lottery games; and business records and information submitted pursuant to
3 sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such doc-
4 uments and information obtained and held for the purposes of lottery secu-
5 rity and investigative action as determined by lottery rules unless the pub-
6 lic interest in disclosure substantially outweighs the private need for pro-
7 tection from public disclosure.

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

9 (a) Records of personal debt filed with a public agency pursuant to law;

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

12 (c) Records of ownership of financial obligations and instruments of a
13 public agency, such as bonds, compiled by the public agency pursuant to
14 law;

15 (d) Records with regard to the ownership of or security interests in
16 registered public obligations;

17 (e) Vital statistics records, except for the purposes of research
18 and statistical analysis that shall be made available for examination
19 under a nondisclosure agreement. Any records containing personally
20 identifiable information shall not be subject to disclosure, however,
21 research reports and statistical analysis derived from examination of
22 these records that do not contain personally identifiable information
23 may be subject to disclosure;

24 (f) Military records as described in and pursuant to section 65-301,
25 Idaho Code;

26 (g) Social security numbers; and

27 (h) The following personal data identifiers for an individual may be
28 disclosed only in the following redacted format:

29 (i) The initials of any minor children of the individual;

30 (ii) A date of birth in substantially the following format:
31 "XX/XX/birth year";

32 (iii) The last four (4) digits of a financial account number in
33 substantially the following format: "XXXXX1234";

34 (iv) The last four (4) digits of a driver's license number or
35 state-issued personal identification card number in substan-
36 tially the following format: "XXXXX350F"; and

37 (v) The last four (4) digits of an employer identification number
38 or business's taxpayer identification number.

39 (5) Information in an income or other tax return measured by items of
40 income or sales that is gathered by a public agency for the purpose of admin-
41 istering the tax, except such information to the extent disclosed in a writ-
42 ten decision of the tax commission pursuant to a taxpayer protest of a defi-
43 ciency determination by the tax commission, under the provisions of section
44 63-3045B, Idaho Code.

45 (6) Records of a personal nature related directly or indirectly to the
46 application for and provision of statutory services rendered to persons
47 applying for public care for people who are elderly, indigent or have mental
48 or physical disabilities, or participation in an environmental or a public
49 health study, provided the provisions of this subsection making records
50 exempt from disclosure shall not apply to the extent that such records or

1 information contained in those records are necessary for a background check
2 on an individual that is required by federal law regulating the sale of
3 firearms, guns or ammunition.

4 (7) Employment security information, except that a person may agree,
5 through written, informed consent, to waive the exemption so that a third
6 party may obtain information pertaining to the person, unless access to the
7 information by the person is restricted by subsection (3) (a), (b) or (d)
8 of section 74-113, Idaho Code. Notwithstanding the provisions of section
9 74-113, Idaho Code, a person may not review identifying information con-
10 cerning an informant who reported to the department of labor a suspected
11 violation by the person of the employment security law, chapter 13, title 72,
12 Idaho Code, under an assurance of confidentiality. As used in this section
13 and in chapter 13, title 72, Idaho Code, "employment security information"
14 means any information descriptive of an identifiable person or persons that
15 is received by, recorded by, prepared by, furnished to or collected by the
16 department of labor or the industrial commission in the administration of
17 the employment security law.

18 (8) Any personal records, other than names, business addresses and
19 business phone numbers, such as parentage, race, religion, sex, height,
20 weight, tax identification and social security numbers, financial worth or
21 medical condition submitted to any public agency pursuant to a statutory
22 requirement for licensing, certification, permit or bonding.

23 (9) Unless otherwise provided by agency rule, information obtained as
24 part of an inquiry into a person's fitness to be granted or retain a license,
25 certificate, permit, privilege, commission or position, private associa-
26 tion peer review committee records authorized in title 54, Idaho Code. Any
27 agency that has records exempt from disclosure under the provisions of this
28 subsection shall annually make available a statistical summary of the number
29 and types of matters considered and their disposition.

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

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

36 (12) Records of the department of health and welfare or a public health
37 district that identify a person infected with a reportable disease. For the
38 purposes of research and statistical analysis, records included in this sub-
39 section shall be made available for examination under a nondisclosure agree-
40 ment. Any records containing personally identifiable information shall not
41 be subject to disclosure, however, research reports and statistical analy-
42 sis derived from examination of these records that do not contain personally
43 identifiable information may be subject to disclosure.

44 (13) Records of hospital care, medical records, including prescrip-
45 tions, drug orders, records or any other prescription information that
46 specifically identifies an individual patient, prescription records main-
47 tained by the board of pharmacy under sections 37-2726 and 37-2730A, Idaho
48 Code, records of psychiatric care or treatment and professional counseling
49 records relating to an individual's condition, diagnosis, care or treat-
50 ment, provided the provisions of this subsection making records exempt from

1 disclosure shall not apply to the extent that such records or information
2 contained in those records are necessary for a background check on an in-
3 dividual that is required by federal law regulating the sale of firearms,
4 guns or ammunition. For the purposes of research and statistical analysis,
5 records included in this subsection shall be made available for examination
6 under a nondisclosure agreement. Any records containing personally iden-
7 tifiable information shall not be subject to disclosure, however, research
8 reports and statistical analysis derived from examination of these records
9 that do not contain personally identifiable information may be subject to
10 disclosure.

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

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

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

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

21 (18) Records of the department of health and welfare relating to a sur-
22 vey, resurvey or complaint investigation of a licensed nursing facility.
23 Such records shall, however, be subject to disclosure as public records as
24 soon as the facility in question has received the report, and no later than
25 the fourteenth day following the date that department of health and welfare
26 representatives officially exit the facility pursuant to federal regula-
27 tions. Provided however, that for purposes of confidentiality, no record
28 shall be released under this section that specifically identifies any nurs-
29 ing facility resident.

30 (19) Records and information contained in the registry of immunizations
31 against childhood diseases maintained in the department of health and wel-
32 fare, including information disseminated to others from the registry by the
33 department of health and welfare.

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

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

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

41 (c) Mortgage portfolio loan documents;

42 (d) Records of a current or former employee other than the employee's
43 duration of employment with the association, position held and loca-
44 tion of employment. This exemption from disclosure does not include the
45 contracts of employment or any remuneration, including reimbursement
46 of expenses, of the executive director, executive officers or commis-
47 sioners of the association. All other personnel information relating
48 to an association employee or applicant including, but not limited to,
49 information regarding sex, race, marital status, birth date, home ad-
50 dress and telephone number, applications, testing and scoring materi-

1 als, grievances, correspondence, retirement plan information and per-
2 formance evaluations, shall not be disclosed to the public without the
3 employee's or applicant's written consent. An employee or authorized
4 representative may inspect and copy that employee's personnel records,
5 except for material used to screen and test for employment or material
6 not subject to disclosure elsewhere in the Idaho public records act.

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

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

16 (23) Records and information contained in the time-sensitive emergency
17 registry created by chapter 20, title 57, Idaho Code, together with any re-
18 ports, analyses and compilations created from such information and records.

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

22 (25) The physical voter registration application on file in the county
23 clerk's office; however, a redacted copy of said application shall be made
24 available consistent with the requirements of this section. Information
25 from the voter registration application maintained in the statewide voter
26 registration database, including age, will be made available except for
27 the voter's driver's license number, date of birth and, upon a showing that
28 the voter comes within the provisions of subsection (30) of this section or
29 upon showing of good cause by the voter to the county clerk in consultation
30 with the county prosecuting attorney, the physical residence address of the
31 voter. For the purposes of this subsection, good cause shall include the
32 protection of life and property and protection of victims of domestic vio-
33 lence and similar crimes.

34 (26) Information in the files of the health care directive registry
35 maintained by the department of health and welfare under section 39-4515,
36 Idaho Code, is confidential and shall not be disclosed to any person other
37 than to the person who executed an advance care planning document or the re-
38 vocation thereof and that person's surrogate decision-maker, to the person
39 who registered an advance care planning document or revocation thereof, and
40 to physicians, hospitals, medical personnel, nursing homes, and other per-
41 sons who have been granted access to the documents in the registry.

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

46 (a) If requested by a law enforcement agency, to the law enforcement
47 agency; or

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

49 (28) Except as otherwise provided by law relating to the release of in-
50 formation to a governmental entity or law enforcement agency, any personal

1 information including, but not limited to, names, personal and business ad-
2 dresses and phone numbers, sex, height, weight, date of birth, social secu-
3 rity and driver's license numbers, or any other identifying numbers and/or
4 information related to any Idaho fish and game licenses, permits and tags un-
5 less written consent is obtained from the affected person.

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

10 (30) The Idaho residential street address and telephone number of an
11 eligible law enforcement or judicial officer and such officer's residing
12 household members as provided for in chapters 58 and 60 [62], title 19, Idaho
13 Code, except under the following circumstances:

14 (a) If directed by a court order, to a person identified in the court
15 order;

16 (b) If requested by a law enforcement agency, to the law enforcement
17 agency;

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

21 (d) If the law enforcement or judicial officer provides written permis-
22 sion for disclosure of such information.

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

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

31 (33) Personal information including, but not limited to, property val-
32 ues, personal and business addresses, phone numbers, dates of birth, social
33 security and driver's license numbers or any other identifying numbers or
34 information maintained by the administrator of the unclaimed property law
35 set forth in chapter 5, title 14, Idaho Code. Nothing in this subsection
36 shall prohibit the release of names, last known city of residence, property
37 value ranges and general property information by the administrator for the
38 purpose of reuniting unclaimed property with its owner.

39 (34) Any personal information collected by the secretary of state,
40 pursuant to section 67-906(1)(b), Idaho Code, for the purpose of allowing
41 individuals to access the statewide electronic filing system authorized in
42 section 67-906, Idaho Code, except campaign contact phone numbers for candi-
43 dates or committees, which shall be publicly available upon request; and any
44 notification email addresses submitted as part of a lobbyist's registration
45 under section 67-6617, Idaho Code, of an employer, client, or designated
46 contact for the purpose of electronic notification of that employer, client,
47 or designated contact of a report filed under section 67-6619, Idaho Code.

48 SECTION 2. An emergency existing therefor, which emergency is hereby
49 declared to exist, this act shall be in full force and effect on and after
50 July 1, 2024.