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Overview - IDAHO ; CH.48 Revised Statutes Annotated

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Idaho Code Annotated

Chapter 48

19-4807. Cooperation and exchange of information.—The * * *Idaho state police* shall cooperate and exchange information with any other department or authority of the state or with other *police forces*, both within this state and outside it, and with federal * * * *agencies* to achieve greater success in preventing and detecting crimes and apprehending criminals. [1939, ch. 60, § 7, p. 105; am. 1955, ch. 173, § 6, p. 345.]

19-4809. Jailors to receive prisoners from Idaho state police. — Any person having charge of a jail, prison or reformatory or other place of detention shall receive any prisoner arrested by the Idaho state police within the jurisdiction served by such jail and shall detain that prisoner in custody until otherwise ordered by a court of competent jurisdiction, or by the superintendent. Such person in charge shall have the right to refuse to receive any juvenile not being charged with a felony and not in the process of being certified as an adult, in accordance with section 16-1806A, Idaho Code. [1939, ch. 60, § 9, p. 105; am. 1955, ch. 173, § 8, p. 345; am. 1987, ch. 216, § 1, p. 465.]

19-4810. Liberal construction — Purpose. — This act shall be liberally construed, to the end that the criminal laws may be efficiently enforced and offenders promptly and certainly apprehended. [1939, ch. 60, § 10, p. 105.]

19-4811. Salaries and expenses — Source of payment. — All salaries, costs of equipment, and expense of maintaining and operating the Idaho state police shall be paid from the law enforcement account and such other funds as are or may hereafter be appropriated for the purpose of operating and maintaining the Idaho state police. [1939, ch. 60, § 11, p. 105; am. 1955, ch. 173, § 9, p. 345; am. 1983, ch. 179, § 6, p. 487.]

67-2909. Authority to submit fingerprints to state criminal identification bureau and federal bureau of investigation. — All units of state, city and local governments, as well as any agency in the state created by the legislature which require by statute, rule, or, local or county ordinance, fingerprinting of applicants or licensees, are hereby authorized to submit fingerprints to the state criminal identification bureau, of the department of law enforcement, for examination and further submission, if necessary, to the federal bureau of investigation. Such identification records resulting from submission of fingerprints shall be used only for the official use of the requesting party. [1972, ch. 250, § 1, p. 644; am. 1974, ch. 27, § 195, p. 811; am. and redesign. 1995, ch. 116, § 11, p. 386.]

67-2910. State criminal identification bureau established. — There is hereby established as a bureau of the department of law enforcement a state criminal identification bureau to be known as the "Bureau of Criminal Identification." [I.C., § 67-2910, as added by 1995, ch. 116, § 12, p. 386.]

67-2911. Criminal identification, records and statistics. —

- (1) Definitions as used in this section and section 67-2912, Idaho Code:
- (a) "Bureau" means the criminal identification bureau in the department of law enforcement of the state of Idaho.
 - (b) "Law enforcement agency" means a governmental unit of one or more persons employed full time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.
 - (c) "Offense" means an act which is a felony or a misdemeanor.
- (2) The bureau shall have the power and it shall be their duty to:
- (a) Obtain and file fingerprints, descriptions, photographs and any other available identifying data on persons who have been arrested, taken into custody or served a criminal summons, in this state:
 - 1. for an offense which is a felony;
 - 2. for an offense which is a misdemeanor involving burglary tools, commercial gambling, dealing in gambling devices, contributing to the delinquency of a child, dealing in stolen property, controlled substances, firearms, dangerous weapons, explosives, pandering, prostitution, sex offenses where children are victims, or worthless checks;
 - 3. for an offense charged as disorderly conduct but which relates to an act connected with one or more of the offenses under subdivision 2;
 - 4. as a fugitive from justice;
 - 5. for any other offense designated by the director of the department of law enforcement.
 - (b) Accept for filing fingerprints and other identifying data, taken at the discretion of the law enforcement agency involved, on persons arrested, taken into custody or served a criminal summons for offenses other than those listed in paragraph (a).
 - (c) Obtain and file fingerprints and other available identifying data on unidentified human corpses found in this state.
 - (d) Obtain and file information relating to identifiable stolen or lost property.
 - (e) Obtain and file a copy or detailed description of each arrest warrant issued in this state in which the law enforcement agency desires the return of the person described in said warrant but which is not served because the whereabouts of the person named on the warrant is unknown or because that person has left the state. All available identifying data shall be obtained with the copy of the warrant, including any information indicating that the person named on the warrant may be armed, dangerous or possessed of suicidal tendencies.
 - (f) Collect information concerning the number and nature of all offenses designated by the director of the department of law enforcement, including, but not limited to, Part I and Part II offenses as defined by the federal bureau of investigation under its system of uniform crime reports for the United States which are known to have been committed in this state, the legal action taken in connection with such offenses from the inception of the complaint to the final discharge of the defendant and such other

information as may be useful in the study of crime and the administration of justice. The director of the department of law enforcement may determine any other information to be obtained regarding crime statistics. However, the information shall include such data as may be requested by the federal bureau of investigation under its system of uniform crime reports for the United States.

(g) Furnish all reporting officials with forms and instructions which specify in detail the nature of the information required under paragraphs (a) to (f), inclusive, the time it is to be forwarded, the method of classifying and such other matters as shall facilitate collection and compilation.

(h) Cooperate with and assist all law enforcement agencies in the state in the establishment of a state system of criminal identification and in obtaining fingerprints and other identifying data on all persons described in paragraphs (a), (b) and (c).

(i) Offer assistance and, when practicable, instructions to all local law enforcement agencies in establishing efficient local bureaus of identification and records systems.

(j) Compare the fingerprints and descriptions that are received from law enforcement agencies with the fingerprints and the descriptions already on file and, if the person arrested or taken into custody is a fugitive from justice or has a criminal record, immediately notify the law enforcement agencies concerned and supply copies of the criminal records to these agencies.

(k) Make available all statistical information obtained to the governor and the legislature.

(l) Prepare and publish reports and releases at least once a year and no later than July 1, containing the statistical information gathered under this section and presenting an accurate picture of crime in this state and of the operation of the agencies of criminal justice.

(m) Make available upon request, to all local and state law enforcement agencies in this state, to all federal law enforcement and criminal identification agencies, and to state law enforcement and criminal identification agencies in other states, any information in the files of the bureau which aid these agencies in the performance of their official duties. For this purpose the bureau shall operate on a twenty-four (24) hour a day basis, seven (7) days a week. Such information may also be made available to any other agency of this state or political subdivision thereof, and to any other federal agency as authorized, and upon assurance by the agency concerned that the information is to be used for official purposes only.

(n) Cooperate with other agencies of this state, the criminal justice agencies of other states, and the uniform crime reports and the national crime information center systems of the federal bureau of investigation in developing and conducting an interstate, national and international system of criminal identification, records and statistics.

(o) Permit any individual upon completion of satisfactory fingerprint identification to review all criminal history record information pertaining to that individual contained within the files of the criminal identification bureau.

(3) The department of law enforcement may establish, by rule, and collect fees for processing a request for fingerprint identification and/or record review that is for other than law enforcement purposes. The department may also collect and account for fees charged by the federal bureau of investigation for processing fingerprints forwarded to the federal bureau of investigation by the department. [I.C., § 19-4812, as added by 1972, ch. 238, § 1, p. 621; am. 1974, ch. 27, § 8, p. 811; am. 1979, ch. 204, § 1, p. 585; am. 1992, ch. 319, § 1, p. 950; am. 1995, ch. 29, § 1, p. 46; am. and redesisg. 1995, ch. 116, § 13, p. 386.]

67-2912. Cooperation in criminal identification, records and statistics. — (1) All persons in charge of law enforcement agencies shall obtain, or cause to be obtained, the fingerprints in duplicate, according to the fingerprint system of identification established by the director of the federal bureau of investigation, full face, profile and full length photographs, if possible, and other available identifying data, of each person arrested, taken into custody or served a criminal summons for an offense of a type designated in section 19-4812(2)(a), Idaho Code, of all persons arrested, taken into custody or served a criminal summons as fugitives from justice, and fingerprints in duplicate and other identifying data of all unidentified human corpses in their jurisdictions, but photographs need not be taken if it is known that photographs of the type listed, taken within the previous year, are on file at the bureau. Fingerprints and other identifying data of persons arrested, taken into custody or served a criminal summons for offenses other than those designated in section 19-4812(2)(a), Idaho Code, may be taken at the discretion of the law enforcement agency concerned. Any person arrested, taken into custody or served a criminal summons and subsequently released without charge, or cleared of the offense through court proceedings, shall have any fingerprint record taken in connection therewith returned upon request and pursuant to judicial order.

(2) Fingerprints and other identifying data required to be taken under subsection (1) shall be forwarded to the bureau within fourteen (14) days after taking for filing and classification but the period of fourteen (14) days may be extended to cover any intervening holiday or weekend.

(3) All persons in charge of law enforcement agencies shall forward to the bureau copies or detailed descriptions of the arrest warrants and the

identifying data described in section 19-4812(2)(c), Idaho Code, immediately upon determination of the fact that the warrant cannot be served for the reason stated. If the warrant is subsequently served or withdrawn, the law enforcement agency concerned must immediately notify the bureau of such service or withdrawal. In any case, the law enforcement agency concerned must annually, no later than January 31 of each year, confirm to the bureau all arrest warrants of this type which continue to be outstanding.

(4) All persons in charge of state penal and correctional institutions shall obtain fingerprints, according to the fingerprint system of identification established by the director of the federal bureau of investigation, and full face and profile photographs of all persons received on commitment to these institutions. The prints and photographs so taken shall be forwarded to the bureau, together with any other identifying data requested, within ten (10) days after the arrival at the institution of the person committed. Full length photographs in release dress shall be taken immediately prior to the release of such persons from these institutions. Immediately after release, these photographs shall be forwarded to the bureau.

(5) All persons in charge of law enforcement agencies, all clerks of court, all persons in charge of state, county and municipal penal and correctional institutions, and all persons in charge of state and county probation and parole offices shall supply the bureau with the information described in section 19-4812(2)(f), Idaho Code, on the basis of the forms and instructions to be supplied by the bureau under section 19-4812(2)(g), Idaho Code. Provided, however, that clerks of court are not required to provide said information to the bureau if they have previously provided the information to the law enforcement agency submitting the offense report and the law enforcement agency has forwarded the information to the bureau.

(6) All persons in charge of law enforcement agencies in this state shall furnish the bureau with any other identifying data required in accordance with guidelines established by the bureau. All law enforcement agencies and penal and correctional institutions in this state having criminal identification files shall cooperate in providing to the bureau copies of such items presently in these files as will aid in establishing the nucleus of the state criminal identification file. [I.C. § 19-4813, as added by 1972, ch. 238, § 2, p. 621; am. 1974, ch. 27, § 9, p. 811; am. 1992, ch. 319, § 2, p. 950; am. and redesign. 1995, ch. 116, § 14, p. 386.]

Chapter 26

18-3316 Discharge of defendant — Amendment of judgment. — 1. If sentence has been imposed but suspended, or if sentence has been withheld, upon application of the defendant and upon satisfactory showing that the defendant has at all times complied with the terms and conditions upon which he was placed on probation, the court may, if convinced by the showing made that there is no longer cause for continuing the period of probation, and if it be compatible with the public interest, terminate the sentence or set aside the plea of guilty or conviction of the defendant, and finally dismiss the case and discharge the defendant; and this shall apply

IDAHO

to the cases in which defendants have been convicted and granted probation by the court before this law goes into effect, as well as to cases which arise thereafter. The final dismissal of the case as herein provided shall have the effect of restoring the defendant to his civil rights.

2. If sentence has been imposed but suspended during the first one hundred and twenty (120) days of a sentence to the custody of the state board of correction, and the defendant placed upon probation as provided in 4 of section 19-2601, Idaho Code, upon application of the defendant, the prosecuting attorney, or upon the court's own motion, and upon satisfactory showing that the defendant has at all times complied with the terms and conditions of his probation, the court may amend the judgment of conviction from a term in the custody of the state board of correction to "confinement in a penal facility" for the number of days served prior to suspension, and the amended judgment may be deemed to be a misdemeanor conviction.

3. Subsection 2 of this section shall not apply to any judgment of conviction for a violation of the provisions of sections 18-1506, 18-1507 or 18-1508, Idaho Code. A judgment of conviction for a violation of the provisions of any section listed in this subsection shall not be expunged from a person's criminal record. [1915, ch. 104, part of § 1, p. 245; reen. C.L., § 8002; am. 1919, ch. 134, § 2, p. 429; C.S., § 9046; I.C.A., § 19-2506; am. 1951, ch. 99, § 1, p. 224; am. 1970, ch. 143, § 4, p. 425; am. 1971, ch. 97, § 2, p. 210; am. 1989, ch. 305, § 1, p. 759.]

Evidence Chapter 3 Public Writings

9-301. Public writings — Right to inspect and take copy. — Every citizen has a right to inspect and take a copy of any public writing of this state, except as otherwise expressly provided by statute. [C.C.P. 1881, § 902; R.S., R.C., & C.L., § 5965; C.S., § 7940; I.C.A., § 16-301.]

9-302. Furnishing of certified copy — Duty of officer having custody — Copy as evidence — Fees. — Every public officer having the custody of a public writing, which a citizen has a right to inspect, is bound to give him, on demand, a certified copy of it, on payment of the legal fees therefor, and such copy is admissible as evidence in like cases and with like effect as the original writing. When the amount of the legal fees for such certified copies is not otherwise specified, the officer furnishing the copies shall demand and receive therefor twenty cents (20¢) for each folio of one hundred (100) words: provided, however, that when the copies are furnished said public officer, and that proofreading and correction alone is necessary, said officer shall, whether the amount of legal fees for certified copies is specified herein or elsewhere, charge five cents (5¢) per folio, which shall be in lieu of all other charges, including certificate. [C.C.P. 1881, § 903; R.S., R.C., & C.L., § 5966; C.S., § 7941; am. 1923, ch. 64, § 1, p. 71; am. 1925, ch. 124, § 1, p. 170; I.C.A., § 16-302.]

9-340. Records exempt from disclosure. [Effective July 1, 1994.] —
The following records are exempt from disclosure:

- (1) Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation.
- (2) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section mean information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that:
 - (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and
 - (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
- (3) Records, maps or other records identifying the location of archaeological or geophysical sites or endangered species, if not already known to the general public.
- (4) Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation, when such records are required to be filed by statute for the time provided by statute.
- (5) Production records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or enterprise required by law to be submitted to or inspected by a public agency. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.
- (6) Records relating to the appraisal of real property, timber, or mineral rights prior to its acquisition, sale or lease by a public agency.
- (7) Any estimate prepared by a public agency that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.
- (8) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.
- (9) The records of a library which, when examined alone, or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from a library.
- (10) The material of a library, museum or archive which has been contributed by a private person, to the extent of any limitation that is a condition of the contribution.
- (11) Records of a personal nature as follows:
 - (a) Records of personal debt filed with a public agency pursuant to law;
 - (b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;
 - (c) Records of ownership of financial obligations and instruments of a public agency, such as bonds, compiled by the public agency pursuant to law;
 - (d) Records, with regard to the ownership of, or security interests in, registered public obligations;
 - (e) Vital statistics records;
 - (f) Except as provided in this subsection, all information provided to a law enforcement agency for sex offender registration pursuant to the provisions of section 18-8306, Idaho Code:
 - (i) Such information shall be available upon request to a law enforcement agency; and

(ii) The information provided pursuant to the provisions of subsections (1) and (3) of section 18-8306, Idaho Code, shall be provided to any person upon written request. Such written request shall include the name, date of birth and social security number of the person for whom the information is requested.

(12) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

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

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

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

(16) Computer programs developed or purchased by or for any public agency for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:

- (a) The original data including, but not limited to, numbers, text, voice, graphics and images;
- (b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or
- (c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

(17) Records that identify the method by which the Idaho state tax commission selects tax returns for audit review.

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

(19) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

(20) Employment security information and unemployment insurance benefit information, except that all interested parties may agree to waive the exemption.

(21) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.

(22) Investigatory records of a law enforcement agency, as defined in section 9-337(5), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(23) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study.

(24) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons.

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

(26) Records of hospital care, medical records, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment.

(27) Records of a person maintained pursuant to chapter 18, title 16, Idaho Code.

(28) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.

(29) Records contained in court files of judicial proceedings, the disclosure of which is prohibited by or under rules adopted by the Idaho supreme court, but only to the extent that confidentiality is provided under such rules, and any drafts or other working memoranda related to judicial decision making.

(30) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative council by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

(31) (a) All papers, physical and electronic records and correspondence or other supporting materials comprising the work papers in the possession of the office of the state auditor prior to release of the related final audit and all other records or materials in the possession of the office of the state auditor that would otherwise be confidential or exempt from disclosure.

(b) All papers, physical and electronic records and correspondence or other supporting materials comprising the work papers in the possession of the office of the legislative council prior to release of the related final audit and all other records or materials in the possession of the office of the legislative council that would otherwise be confidential or exempt from disclosure.

(32) The records, finding, determinations and decision of any prelitigation screening panel formed under chapter 10, title 6, Idaho Code.

(33) Board of professional discipline reprimands by informal admonition pursuant to subsection (6)(f) of section 54-1806A, Idaho Code.

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

(35) Information, records, including names and addresses of victims, or investigations of the department of correction or the commission of pardons and parole to the extent that disclosure thereof would interfere with the secure and orderly conduct of their operations, or the rehabilitation of any person in the custody of the department of correction or on parole, or would substantially prejudice or prevent the carrying out of the functions of the department of correction or the commission of pardons and parole if the

public interest in confidentiality clearly outweighs the public interest in disclosure.

(36) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant, including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

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

(38) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:

- (a) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or
- (b) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or
- (c) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or
- (d) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction.

(39) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided, however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall

be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code.

(40) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided, however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise available to any public agency.

[(41)](40) Records of laboratory test results provided by or retained by the department of agriculture's quality assurance laboratory. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding. [I.C., § 9-340, as added by 1990, ch. 213, § 1, p. 480; am. 1991, ch. 61, § 7, p. 140; am. 1992, ch. 200, § 1, p. 618; am. 1992, ch. 257, § 1, p. 744; am. 1992, ch. 312, § 1, p. 927; am. 1992, ch. 313, § 1, p. 931; am. 1993, ch. 31, § 1, p. 101; am. 1993, ch. 94, § 1, p. 224; am. 1993, ch. 155, § 2, p. 391; am. 1993, ch. 190, § 1, p. 483; am. 1993, ch. 198, § 1, p. 543; am. 1993, ch. 302, § 1, p. 1118; am. 1993, ch. 327, § 4, p. 1186; am. 1993, ch. 388, § 2, p. 1435.]

9-342. Access to records about a person by a person. — (1) A person may inspect and copy the records of a public agency pertaining to that person, even if the record is otherwise exempt from public disclosure.

(2) A person may request in writing an amendment of any record pertaining to that person. Within ten (10) days of the receipt of the request, the public agency shall either:

(a) Make any correction of any portion of the record which the person establishes is not accurate, relevant, or complete; or

(b) Inform the person in writing of the refusal to amend in accordance with the request and the reasons for the refusal, and indicate clearly the person's right to appeal the refusal and the time period for doing so. The procedures for appealing a refusal to amend shall be the same as those set forth in sections 9-343 and 9-344, Idaho Code, and the court may award reasonable costs and attorney fees to the prevailing party or parties, if it finds that the request for amendment or refusal to amend was frivolously pursued.

(3) The right to inspect and amend records pertaining to oneself does not include the right to review otherwise exempt investigatory records of a public agency if the investigation is ongoing, information that is compiled in reasonable anticipation of a civil action or proceeding which is not otherwise discoverable or the information relates to adoption records or information which is otherwise exempt from disclosure by statute. [I.C., § 9-342, as added by 1990, ch. 213, § 1, p. 480; am. 1992, ch. 200, § 2, p. 618.]

9-343. Proceedings to enforce right to examine or to receive a copy of records — Retention of disputed records. — (1) The sole remedy for a person aggrieved by the denial of a request for disclosure is to institute proceedings in the district court of the county where the records or some part thereof are located, to compel the public agency to make the information available for public inspection in accordance with the provisions of this act. The petition contesting the public agency's decision shall be filed within one hundred eighty (180) calendar days from the date of mailing of the notice of denial or partial denial by the public agency. The time for responsive pleadings and for hearings in such proceedings shall be set by the court at the earliest possible time, or in no event beyond twenty-eight (28) calendar days from the date of filing.

(2) The public agency shall keep all documents or records in question until the end of the appeal period, until a decision has been rendered on the petition, or as otherwise statutorily provided, whichever is longer.

(3) Nothing contained in this act shall limit the availability of documents and records for discovery in the normal course of judicial or administrative adjudicatory proceedings, subject to the law and rules of evidence and of discovery governing such proceedings. [I.C., § 9-343, as added by 1990, ch. 213, § 1, p. 480; am. 1992, ch. 200, § 3, p. 618.]

9-348. Prohibition on distribution or sale of mailing or telephone number lists — Penalty. — (1) Except as provided in subsections (2), (3), (4), (5) and (6) of this section, in order to protect the privacy of those who deal with public agencies:

(a) No agency may distribute or sell for use as a mailing list or a telephone number list any list of persons without first securing the permission of those on the list; and

(b) No list of persons prepared by the agency may be used as a mailing list or a telephone number list except by the agency or another agency without first securing the permission of those on the list.

(2) Except as may be otherwise provided in this chapter, this section does not prevent an individual from compiling a mailing list or a telephone number list by examination or copying of public records, original documents or applications which are otherwise open to public inspection.

(3) The provisions of this section do not apply to the lists of registered electors compiled pursuant to title 34, Idaho Code, or to lists of the names of employees governed by chapter 53, title 67, Idaho Code.

(4) The provisions of this section shall not apply to agencies which issue occupational or professional licenses.

(5) This section does not apply to the right of access either by Idaho law enforcement agencies or, by purchase or otherwise, of public records dealing with motor vehicle registration.

(6) This section does not apply to a corporate information list developed by the office of the secretary of state containing the name, address, registered agent, officers and directors of corporations authorized to do business

in this state or to a business information list developed by the department of commerce containing the name, address, telephone number or other relevant information of Idaho businesses or individuals requesting information regarding the state of Idaho or to business lists developed by the department of agriculture, division of marketing and development, used to promote food and agricultural products produced in Idaho.

(7) If a court finds that a person or public official has deliberately and in bad faith violated the provisions of subsection (1)(b) of this section, the person or public official shall be liable for a civil penalty assessed by the court in an amount not in excess of one thousand dollars (\$1,000) which shall be paid into the general account. [I.C., § 9-348, as added by 1992, ch. 279, § 1, p. 856; am. 1993, ch. 117, § 1, p. 294.]

9-349. Severability. — The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act. [I.C., § 9-348, as added by 1990, ch. 213, § 1, p. 480; am. and redesign. 1992, ch. 279, § 2, p. 856.]

IDAHO

Chapter 10

59-1009. Official records open to inspection. — The public records and other matters in the office of any officer are, at all times during office hours, open to the inspection of any citizen of this state. [R.S., § 454; am. R.C., § 341; reen. C.L., § 341; C.S., § 479; I.C.A., § 57-1009.]

IDAHO REGULATIONS

5.4-2 DISSEMINATION POLICY

1. Conviction and non-conviction data will be released for criminal justice purposes to any criminal justice agency or law enforcement agency; or any federal, state or local agency authorized by statute, ordinance, executive order, court order, rule or decision to receive such information.
2. Conviction data contained in the criminal history records of the Criminal Identification Bureau shall be released to anyone, providing they furnish:
 - a. the name of the requestor,
 - b. the name of the record subject, a release signed by the record subject and any one of the following:
 1. the fingerprints of the record subject or,
 2. the State Identification Number (SID) assigned to the record subject by CIB or,
 3. Date of Birth or,
 4. Social Security Account Number (SSAN)
3. Agencies having a continuous need for criminal history record information will be required to sign a User Agreement with CIB. The User Agreement will be used to facilitate the billing process. A "continuous need" is a requirement for five or more criminal history record checks per month.
4. If the identifying information supporting a request for disclosure matches the criminal history record of more than one individual, CIB will not disclose any of the records until further identifying information is provided by the requestor.

5. CIB will maintain a record of all disclosures made under the preceding, noting the identity of the requestor and the record subject and the date of disclosure.

6. Requests made under Pargarph 2 will be charged reasonable fees to cover administrative costs to the Criminal Identification Bureau.

8/87