

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 535

5 By: Senator B. Davis
6 By: Representatives Ray, McCollum
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE PERSONAL PRIVACY PROTECTION ACT;
10 TO REGULATE PUBLIC AGENCY INTERACTION WITH A
11 NONPROFIT ENTITY; TO AMEND THE LAW CONCERNING
12 DISCLOSURE OF INFORMATION MAINTAINED BY NONPROFIT
13 ENTITIES; TO CREATE A MISDEMEANOR OFFENSE FOR THE
14 DISCLOSURE OF PRIVATE INFORMATION OF A NONPROFIT
15 ENTITY; AND FOR OTHER PURPOSES.
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Subtitle

18 TO CREATE THE PERSONAL PRIVACY PROTECTION
19 ACT.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code Title 4, Chapter 4, is amended to add an
26 additional section to read as follows:

27 4-28-418. Philanthropy Freedom.

28 (a) Except where specifically required or authorized by federal law,
29 no state agency or state official shall impose an annual filing or reporting
30 requirement on an organization, regulated or specifically exempted from
31 regulation under this chapter, that is more stringent, restrictive, or
32 expansive than the requirements authorized by statute.

33 (b) The exception under subsection (a) of this section shall not apply
34 to state grants and contracts, fraud investigations, and shall not restrict
35 enforcement actions against specific nonprofit organizations.
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1 SECTION 2. Arkansas Code Title 25, Chapter 1, is amended to add an
2 additional subchapter to read as follows:

3 Subchapter 6 –
4 Public Agency Interaction With Nonprofit Entities

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6 25-1-601. Title.

7 This subchapter shall be known and may be cited as the “Personal
8 Privacy Protection Act”.

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10 25-1-602. Legislative intent.

11 The General Assembly finds that this subchapter is needed to prohibit
12 public agencies from disclosing or releasing personal information about
13 membership, volunteers, and financial and nonfinancial donors to 501(c)
14 nonprofit organizations, except as required by law.

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16 25-1-603. Definitions.

17 As used in this subchapter:

18 (1) "Person" means an individual, proprietorship, firm,
19 partnership, joint venture, syndicate, labor union, business trust, company,
20 corporation, association, committee, or any other organization or group of
21 persons acting in concert;

22 (2) "Personal information" means a list, record, register,
23 registry, roll, roster or other compilation of data that identifies a person
24 as a member, supporter, volunteer of, or donor of financial or nonfinancial
25 support to an entity exempt from federal income tax under Section 501(c) of
26 the Internal Revenue Code; and

27 (3) "Public agency" means a state or local government entity,
28 including a:

29 (A) Department, division, agency, office, commission,
30 board, or other government organization;

31 (B) Political subdivision, including a county, city, town,
32 municipality, or conservation district;

33 (C) Public school, school district, charter school, or
34 public institution of higher education; or

35 (D) Judicial or quasi-judicial body.
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25-1-604. Protection of personal information.

(a) Except as provided in subsection (b) of this section, a public agency may not:

(1) Require an individual to provide the public agency with personal information or otherwise compel the release of personal information;

(2) Require an entity exempt from federal income tax under Section 501(c) of the Internal Revenue Code to provide the public agency with personal information or compel the entity to release personal information;

(3) Release, publicize, or otherwise publicly disclose personal information in possession of a public agency; or

(4) Request or require a current or prospective contractor or grantee of the public agency to provide the public agency with a list of entities exempt from federal income tax under Section 501(c) of the Internal Revenue Code to which the contractor or grantee has provided financial or nonfinancial support.

(b) Subsection (a) of this section does not apply to a disclosure of personal information:

(1) Required under a specific requirement relating to reporting campaign contributions, campaign expenditures, lobbying disclosures, or lobbying expenditures;

(2) Voluntarily made:

(A) As part of public comment or in a public meeting; or

(B) In another manner that is publicly accessible;

(3) Pursuant to a warrant or court order issued by a court of competent jurisdiction;

(4) Made by a request for discovery of personal information in litigation or a criminal proceeding;

(5)(A) Used in a legal proceeding.

(B) A court of competent jurisdiction may consider whether to:

(i) Limit a request for discovery of personal information; or

(ii) Issue a protective order in relation to the disclosure of personal information obtained or used in relation to a legal proceeding;

(6) Requested or used by the Department of Finance and

1 Administration for the administration of tax or motor vehicle laws; or
 2 (7) Used or accessed by Arkansas Legislative Audit or any other
 3 public agency with oversight function over a government grant program for the
 4 purpose of an audit specific to the grant program funds and that the
 5 information accessed is limited to information related to the public agency
 6 grant program or grant program funds.

7 (d) Personal information about membership, volunteers, and financial
 8 and nonfinancial donors to 501(c) nonprofit organizations maintained by a
 9 public agency is not a public record and is exempt from release or disclosure
 10 under the Freedom of Information Act of 1967, § 25-19-101 et seq.

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 12 25-1-605. Private cause of action – Enforcement – Penalty.

13 (a)(1) A person whose personal information is provided or disclosed in
 14 violation of this subchapter may bring a claim for injunctive relief or
 15 monetary damages against a public agency or an employee of a public agency
 16 acting in his or her official capacity.

17 (2) Damages awarded under subsection (a)(1) of this section may
 18 include one of the following, as appropriate:

19 (A) A sum of money not less than one thousand dollars
 20 (\$1,000) to compensate for injury or loss caused by each violation of this
 21 subchapter; or

22 (B) For an intentional violation of this subchapter, a sum
 23 of money not to exceed three (3) times the sum awarded under subdivision
 24 (a)(2)(A) of this section.

25 (b)(1) A claim for injunctive relief against a public agency or an
 26 employee of a public agency shall be:

27 (A) Initiated within two (2) years after the violation
 28 occurred; and

29 (B) Filed in the state trial court in whose jurisdiction
 30 either the persons residence or the public agency is located at the time of
 31 filing.

32 (2) A claim for monetary damages against a public agency or an
 33 employee of a public agency shall be:

34 (A) Initiated within two (2) years after the violation
 35 occurred; and

36 (B) Filed with the Arkansas State Claims Commission under

1 § 19-10-201.

2 (3) A person that prevails on a claim brought under this section
3 may recover reasonable attorney's fees and costs.

4 (c) A person that knowingly violates this subchapter is guilty of a
5 Class C misdemeanor.

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