

SB59 INTRODUCED



1 O7YEMW-1
2 By Senator Smitherman
3 RFD: Judiciary
4 First Read: 07-Mar-23
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SYNOPSIS:

Under existing law, a public agency is not prohibited from disclosing certain personal information that identifies a person as a member, supporter, volunteer, or donor of a 501(c) nonprofit organization.

This bill would prohibit a public agency from disclosing this personal information or requiring its disclosure, except as required by law.

This bill would provide for civil and criminal penalties for violations.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective



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29 because it comes within one of the specified exceptions
30 contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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38 Relating to disclosure of certain personal information;
39 to prohibit public agencies from collecting, disclosing, or
40 releasing certain personal information about members of,
41 volunteers for, and financial and nonfinancial donors to
42 nonprofit organizations, except as required by law; and to
43 provide civil and criminal penalties for violation of these
44 prohibitions; and in connection therewith would have as its
45 purpose or effect the requirement of a new or increased
46 expenditure of local funds within the meaning of Section
47 111.05 of the Constitution of Alabama of 2022.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. This act shall be known as The Personal
50 Privacy Protection Act.

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Section 2. For purposes of this act, the following
52 terms have the following meanings:

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(1) NONPROFIT ORGANIZATION. An entity that is exempt
54 from federal income tax under Section 501(c) of the federal
55 Internal Revenue Code, has submitted an application with the
56 Internal Revenue Service for recognition of an exemption under



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57 Section 501(c) of the Internal Revenue Code, or is a nonprofit
58 business entity recognized under state law.

59 (2) PERSONAL INFORMATION. Any list, record, register,
60 registry, roll, roster, or other compilation of data of any
61 kind that directly or indirectly identifies a person as a
62 member, supporter, volunteer, or donor of financial or
63 nonfinancial support to any nonprofit organization.

64 (3) PUBLIC AGENCY. Any department, agency, office,
65 commission, board, division, or other entity of this state, or
66 of any political subdivision of this state, including, but not
67 limited to, a public institution of higher education, as
68 defined in Section 16-5-1, Code of Alabama 1975, a county,
69 municipality, or school district; or any state or local court,
70 tribunal, or other judicial or quasi-judicial body.

71 Section 3. Notwithstanding any provision of law to the
72 contrary, and subject to Section 4, a public agency shall not
73 do any of the following:

74 (1) Require any person or nonprofit organization to
75 provide the public agency with personal information or
76 otherwise compel the release of personal information.

77 (2) Release, publicize, or otherwise publicly disclose
78 personal information in its possession.

79 (3) Request or require a current or prospective
80 contractor or grantee of the public agency to provide a list
81 of nonprofit organizations to which the current or prospective
82 contractor or grantee has provided financial or nonfinancial
83 support.

84 Section 4. (a) This act does not preclude any of the



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85 following:

86 (1) Any report or disclosure required by The Fair
87 Campaign Practices Act, Chapter 5 of Title 17, Code of Alabama
88 1975, or any successor provisions thereto.

89 (2) Any lawful warrant for personal information issued
90 by a court of competent jurisdiction.

91 (3) Any lawful request for discovery of personal
92 information in litigation if all of the following conditions
93 are met:

94 a. The relevant and probative value of the personal
95 information requested outweighs the prejudicial effect.

96 b. The requestor obtains a protective order barring
97 disclosure of the personal information to any person not named
98 in the litigation.

99 (4) Admission of personal information as relevant
100 evidence before a court of competent jurisdiction; however, no
101 court shall publicly reveal personal information absent a
102 specific finding of good cause.

103 (5) A release of personal information by any public
104 agency if the information had previously been voluntarily
105 released to the public either by the person to which it
106 pertains or by a nonprofit organization to which the person is
107 a donor.

108 (6) The keeping of filings, certificates, and other
109 public records that disclose the identity of any director,
110 officer, registered agent, or incorporator of a nonprofit
111 organization in any report or disclosure required by law to be
112 filed with the Secretary of State, except that information



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113 that directly identifies a person as a donor of financial
114 support to a nonprofit organization, shall not be collected or
115 disclosed.

116 (7) Disclosure of personal information derived from a
117 donation to a nonprofit organization affiliated with a public
118 agency as required by law, if the person has not previously
119 requested anonymity from the nonprofit organization.

120 (b) Nothing in this act shall apply to a national
121 securities association that is registered pursuant to Section
122 15A of the Securities Exchange Act of 1934 15 U.S.C. § 780-3,
123 as amended, or regulations adopted thereunder, or any
124 information the national securities association provides to
125 the Alabama Securities Commission as provided in Article 1 of
126 Chapter 6 of Title 8, Code of Alabama 1975, and the rules
127 adopted thereunder.

128 Section 5. (a) A person alleging a violation of this
129 act may bring a civil action for appropriate injunctive
130 relief, damages, or both. Damages awarded under this section
131 may include one of the following, as appropriate:

132 (1) A sum of not less than two thousand five hundred
133 dollars (\$2,500) to compensate for injury or loss caused by
134 each violation of this act.

135 (2) For an intentional violation of this act, a sum not
136 to exceed three times the sum described in subdivision (1).

137 (b) A court, in rendering a judgment in an action
138 brought under this act, may award all or a portion of the
139 costs of litigation, including reasonable attorney fees and
140 witness fees, to the complainant in the action if the court



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141 determines that the award is appropriate.

142 (c) A person who knowingly violates this act shall be
143 guilty of a Class C misdemeanor.

144 Section 6. Personal information shall be confidential
145 and shall not be considered a public record for purposes of
146 Article 3 of Chapter 12 of Title 36, Code of Alabama 1975.

147 Section 7. Although this bill would have as its purpose
148 or effect the requirement of a new or increased expenditure of
149 local funds, the bill is excluded from further requirements
150 and application under Section 111.05 of the Constitution of
151 Alabama of 2022, because the bill defines a new crime or
152 amends the definition of an existing crime.

153 Section 8. This act shall become effective on the first
154 day of the third month following its passage and approval by
155 the Governor, or its otherwise becoming law.