

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 1064 & 667

102ND GENERAL ASSEMBLY

1926H.06P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 105.1500, RSMo, and to enact in lieu thereof one new section relating to the personal privacy protection act, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 105.1500, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.1500, to read as follows:

105.1500. 1. This section shall be known and may be cited as "The Personal Privacy Protection Act".

2. As used in this section, the following terms mean:

(1) "Personal information", any list, record, register, registry, roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, or volunteer of, or donor of financial or nonfinancial support to, any entity exempt from federal income ~~tax~~ **taxation** under Section 501(c) of the Internal Revenue Code of 1986, as amended;

(2) "Public agency", the state and any political subdivision thereof including, but not limited to, any department, agency, office, commission, board, division, or other entity of state government; any county, city, township, village, school district, community college district; or any other local governmental unit, agency, authority, council, board, commission, state or local court, tribunal or other judicial or quasi-judicial body.

3. (1) Notwithstanding any provision of law to the contrary, but subject to the exceptions listed under ~~subsection~~ **subsections 4 and 6** of this section, a public agency shall not:

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (a) Require any individual to provide the public agency with personal information or
18 otherwise compel the release of personal information;

19 (b) Require any entity exempt from federal income taxation under Section 501(c) of
20 the Internal Revenue Code **of 1986, as amended**, to provide the public agency with personal
21 information or otherwise compel the release of personal information;

22 (c) Release, publicize, or otherwise publicly disclose personal information in
23 possession of a public agency **without the express, written permission of every individual**
24 **who is identifiable as a financial supporter of an entity exempt from federal income**
25 **taxation under Section 501(c) of the Internal Revenue Code of 1986, as amended**; or

26 (d) Request or require a current or prospective contractor or grantee with the public
27 agency to provide the public agency with a list of entities exempt from federal income
28 taxation under Section 501(c) of the Internal Revenue Code of 1986, as amended, to which it
29 has provided financial or nonfinancial support.

30 (2) All personal information in the possession of a public agency shall be considered
31 a closed record under chapter 610 and court operating rules.

32 4. The provisions of this section shall not preclude any individual or entity from being
33 required to comply with any of the following:

34 (1) Submitting any report or disclosure required by this chapter or chapter 130;

35 (2) Responding to any lawful request or subpoena for personal information from the
36 Missouri ethics commission as a part of an investigation, or publicly disclosing personal
37 information as a result of an enforcement action from the Missouri ethics commission
38 pursuant to its authority in sections 105.955 to 105.966;

39 **(3) The collection or publishing of information contained in a financial interest**
40 **statement, as provided by law;**

41 ~~[(3)]~~ (4) Responding to any lawful warrant for personal information issued by a court
42 of competent jurisdiction;

43 ~~[(4)]~~ (5) Responding to any lawful request for discovery of personal information in
44 litigation if:

45 (a) The requestor demonstrates a compelling need for the personal information by
46 clear and convincing evidence; and

47 (b) The requestor obtains a protective order barring disclosure of personal
48 information to any person not named in the litigation;

49 ~~[(5)]~~ (6) Applicable court rules or admitting any personal information as relevant
50 evidence before a court of competent jurisdiction. However, a submission of personal
51 information to a court shall be made in a manner that it is not publicly revealed and no court
52 shall publicly reveal personal information absent a specific finding of good cause; or

53 ~~[(6)]~~ (7) Any report or disclosure required by state law to be filed with the secretary
54 of state, provided that personal information obtained by the secretary of state is otherwise
55 subject to the requirements of paragraph (c) of subdivision (1) of subsection 3 of this section,
56 unless expressly required to be made public by state law.

57 5. (1) A person or entity alleging a violation of this section may bring a civil action
58 for appropriate injunctive relief, damages, or both. Damages awarded under this section may
59 include one of the following, as appropriate:

60 (a) A sum of moneys not less than two thousand five hundred dollars to compensate
61 for injury or loss caused by each violation of this section; or

62 (b) For an intentional violation of this section, a sum of moneys not to exceed three
63 times the sum described in paragraph (a) of this subdivision.

64 (2) A court, in rendering a judgment in an action brought under this section, may
65 award all or a portion of the costs of litigation, including reasonable attorney's fees and
66 witness fees, to the complainant in the action if the court determines that the award is
67 appropriate.

68 (3) A person who knowingly violates this section is guilty of a class B misdemeanor.

69 **6. This section shall not apply to:**

70 **(1) Personal information that a person or entity exempt from federal income**
71 **taxation under Section 501(c) of the Internal Revenue Code of 1986, as amended,**
72 **submits or has previously submitted to a public agency for the purpose of seeking or**
73 **obtaining, including acting on behalf of another to seek or obtain, a contract, grant,**
74 **permit, license, benefit, tax credit, incentive, status, or any other similar item, including**
75 **a renewal of the same, provided that a public agency shall not require an entity exempt**
76 **from federal income taxation under Section 501(c) of the Internal Revenue Code of**
77 **1986, as amended, to provide information that directly identifies donors of financial**
78 **support, but such information may be voluntarily provided to a public agency by the**
79 **501(c) entity. If a financial donor is seeking a benefit, tax credit, incentive, or any other**
80 **similar item from a public agency based upon a donation, confirmation of specific**
81 **donations by an entity exempt from federal income taxation under Section 501(c) of the**
82 **Internal Revenue Code of 1986, as amended, shall be considered personal information**
83 **voluntarily provided to the public agency by the 501(c) entity;**

84 **(2) A disclosure of personal information among law enforcement agencies or**
85 **public agency investigators pursuant to an active investigation;**

86 **(3) A disclosure of personal information voluntarily made as part of public**
87 **comment, public testimony, pleading, or in a public meeting, or voluntarily provided to**
88 **a public agency, for the purpose of public outreach, marketing, or education to show**
89 **appreciation for or in partnership with an entity or the representatives of an entity**

90 **exempt from federal income taxation under Section 501(c) of the Internal Revenue Code**
91 **of 1986, as amended, provided that no public agency shall disclose information that**
92 **directly identifies an individual as a donor of financial support to a 501(c) entity without**
93 **the express, written permission of the individual to which the personal information**
94 **relates; or**

95 **(4) A disclosure of personal information to a labor union or employee association**
96 **regarding employees in a bargaining unit represented by the union or association.**

Section B. Because immediate action is necessary to protect the ability of nonprofit
2 entities to interact with public agencies and restore transparency to governmental contracts,
3 grant programs, and other similar items, section A of this act is deemed necessary for the
4 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared
5 to be an emergency act within the meaning of the constitution, and section A of this act shall
6 be in full force and effect upon its passage and approval.

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