

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
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As Engrossed: S4/5/21 H4/15/21

A Bill

SENATE BILL 535

By: Senator B. Davis
By: Representatives Ray, McCollum

For An Act To Be Entitled

AN ACT TO CREATE THE *GOVERNMENT INTERACTION WITH NONPROFIT ENTITIES ACT*; TO REGULATE PUBLIC AGENCY INTERACTION WITH A NONPROFIT ENTITY; TO AMEND THE LAW CONCERNING DISCLOSURE OF INFORMATION MAINTAINED BY NONPROFIT ENTITIES; TO CREATE A MISDEMEANOR OFFENSE FOR THE DISCLOSURE OF PRIVATE INFORMATION OF A NONPROFIT ENTITY; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE GOVERNMENT INTERACTION WITH NONPROFIT ENTITIES ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 4, Chapter 4, is amended to add an additional section to read as follows:

4-28-418. *Limitations on regulation by a public agency.*

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

(b) The exception under subsection (a) of this section shall not:

(1) Apply to:

(A) State grants and contracts;

(B) Fraud investigations;



(C) Regulation or licensing of entities by the Department of Human Services; or

(D) Regulation or licensing by the Department of Labor and Licensing;

(2) Restrict enforcement actions against specific nonprofit organizations; and

(3) Restrict or limit the functions, powers, and duties granted to the Attorney General to investigate violations of state or federal law and to enforce state or federal law.

SECTION 2. Arkansas Code Title 25, Chapter 1, is amended to add an additional subchapter to read as follows:

Subchapter 6 –

Public Agency Interaction With Nonprofit Entities

25-1-601. Title.

This subchapter shall be known and may be cited as the "Government Interaction with Nonprofit Entities Act".

25-1-602. Legislative intent.

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

25-1-603. Definitions.

As used in this subchapter:

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

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

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

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

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

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

(D) Judicial or quasi-judicial body.

25-1-604. Protection of personal information.

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

(1) Require a person 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) Expressly required by law;

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

(4) In another manner that is publicly accessible;

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

(6) Made by a lawful discovery request for personal information

in litigation or a criminal proceeding;

(7)(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;

(8) Requested or used by the Department of Finance and Administration for the administration of tax or motor vehicle laws;

(9) Used or accessed by Arkansas Legislative Audit or any other public agency with oversight function over a government grant program for the purpose of an audit specific to the grant program funds and that the information accessed is limited to information related to the public agency grant program or grant program funds; or

(10) Requested or used by the State Securities Department for the administration of the Arkansas Securities Act, § 23-42-101 et seq.

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

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

A person that knowingly violates this subchapter is guilty of a Class C misdemeanor.

/s/B. Davis