

By: Representatives Turner, Baker, Arnold,
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Hood

To: Accountability,
Efficiency, Transparency;
Judiciary A

HOUSE BILL NO. 1205

1 AN ACT TO PROVIDE THAT A PUBLIC AGENCY SHALL NOT REQUIRE ANY
2 ENTITY ORGANIZED UNDER SECTION 501(C) OF THE INTERNAL REVENUE CODE
3 TO PROVIDE THE PUBLIC AGENCY WITH PERSONAL INFORMATION; TO PROVIDE
4 EXCEPTIONS TO THIS PROHIBITION; TO PROVIDE PENALTIES; TO AMEND
5 SECTION 25-61-3, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
6 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** The following words and phrases shall have the
9 meanings as defined in this section unless the context clearly
10 indicates otherwise:

11 (a) "Personal information" means any list, record, register,
12 registry, roll, roster or other compilation of data of any kind
13 that directly or indirectly identifies a person as a member,
14 supporter or volunteer of, or donor of financial or nonfinancial
15 support to, any entity organized under Section 501(c) of the
16 Internal Revenue Code. Personal information does not include
17 information reportable to the Secretary of State pursuant to
18 Section 79-11-503(1) (b).

19 (b) "Public agency" means any state or local governmental
20 unit, however designated, including, but not limited to, this



21 state; any department, agency, office, commission, board, division
22 or other entity of this state; any political subdivision of this
23 state, including, but not limited to, a county, city, township,
24 village, school district, community college district or any other
25 local governmental unit, agency, authority, council, board or
26 commission; or any state or local court, tribunal or other
27 judicial or quasi-judicial body.

28 **SECTION 2.** (1) Notwithstanding any law to the contrary, and
29 subject to subsection (3), a public agency shall not do any of the
30 following:

31 (a) Require any entity organized under Section 501(c)
32 of the Internal Revenue Code to provide the public agency with
33 personal information.

34 (b) If in the possession of personal information, a
35 public agency shall not release, publicize or otherwise disclose
36 that personal information without the express written permission
37 of every identified member, supporter, volunteer or donor of the
38 Section 501(c) entity as well as the Section 501(c) entity that
39 received their membership, support, volunteer time or donations.

40 (c) Request or require a current or prospective
41 contractor with the public agency to provide the public agency
42 with a list of entities organized under Section 501(c) of the
43 Internal Revenue Code to which it has provided financial or
44 nonfinancial support.



(2) Personal information shall be exempt from disclosure under the Mississippi Public Records Act.

(3) This act does not preclude either of the following:

(a) Any lawful warrant for personal information issued by a court of competent jurisdiction; or

(b) A lawful request for discovery of personal information in litigation if both of the following conditions are met:

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

(ii) The requestor obtains a protective order barring disclosure of personal information to any person not directly involved in the litigation. As used in this subparagraph, "person" means an individual, partnership, corporation, association, governmental entity or other legal entity.

SECTION 3. (1) A person alleging a violation of this act may bring a civil action for appropriate injunctive relief, damages or both. Damages awarded under this section may include one (1) of the following, as appropriate:

(a) A sum of money not less than Two Thousand Five Hundred Dollars (\$2,500.00) to compensate for injury or loss caused by each violation of this act.



68 (b) For an intentional violation of this act, a sum of
69 money not to exceed three (3) times the sum described in paragraph
70 (a) of this subsection (1).

71 (2) A court, in rendering a judgment in an action brought
72 under this section, may award all or a portion of the costs of
73 litigation, including reasonable attorney fees and witness fees,
74 to the complainant in the action if the court determines that the
75 award is appropriate.

76 **SECTION 4.** A person who knowingly violates this act is
77 guilty of a misdemeanor punishable by imprisonment of not more
78 than ninety (90) days or a fine of not more than One Thousand
79 Dollars (\$1,000.00) or both.

80 **SECTION 5.** The requirements of this act shall not affect any
81 provisions of the Mississippi Campaign Finance statutes provided
82 in Sections 23-15-801, et seq.

83 **SECTION 6.** Section 25-61-3, Mississippi Code of 1972, is
84 amended as follows:

85 25-61-3. The following words shall have the meanings
86 ascribed herein unless the context clearly requires otherwise:

87 (a) "Public body" shall mean any department, bureau,
88 division, council, commission, committee, subcommittee, board,
89 agency and any other entity of the state or a political
90 subdivision thereof, and any municipal corporation and any other
91 entity created by the Constitution or by law, executive order,
92 ordinance or resolution. The term "public body" includes the



governing board of a charter school authorized by the Mississippi Charter School Authorizer Board. Within the meaning of this chapter, the term "entity" shall not be construed to include individuals employed by a public body or any appointed or elected public official.

(b) "Public records" shall mean all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of any public body, or required to be maintained by any public body. "Public records" shall not mean "personal information" as defined in Section 1 of this act.

(c) "Data processing software" means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications and computer networking programs.

(d) "Proprietary software" means data processing software that is obtained under a licensing agreement and is protected by copyright or trade secret laws.



117 (e) "Incident report" means a narrative description, if
118 such narrative description exists and if such narrative
119 description does not contain investigative information, of an
120 alleged offense, and at a minimum shall include the name and
121 identification of each person charged with and arrested for the
122 alleged offense, the time, date and location of the alleged
123 offense, and the property involved, to the extent this information
124 is known.

125 (f) "Investigative report" means records of a law
126 enforcement agency containing information beyond the scope of the
127 matters contained in an incident report, and generally will
128 include, but not be limited to, the following matters if beyond
129 the scope of the matters contained in an incident report:

130 (i) Records that are compiled in the process of
131 detecting and investigating any unlawful activity or alleged
132 unlawful activity, the disclosure of which would harm the
133 investigation which may include crime scene reports and
134 demonstrative evidence;

135 (ii) Records that would reveal the identity of
136 informants and/or witnesses;

137 (iii) Records that would prematurely release
138 information that would impede the public body's enforcement,
139 investigative or detection efforts;

140 (iv) Records that would disclose investigatory
141 techniques and/or results of investigative techniques;



(v) Records that would deprive a person of a right to a fair trial or an impartial adjudication;

(vi) Records that would endanger the life or safety of a public official or law enforcement personnel, or confidential informants or witnesses;

(vii) Records pertaining to quality control or PEER review activities; or

(viii) Records that would impede or jeopardize a prosecutor's ability to prosecute the alleged offense.

(g) "Law enforcement agency" means a public body that performs as one (1) of its principal functions activities pertaining to the enforcement of criminal laws, the apprehension and investigation of criminal offenders, or the investigation of criminal activities.

SECTION 7. This act shall take effect and be in force from and after July 1, 2019.

