

Senate Amendments to House Bill No. 1205

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

9 **SECTION 1.** As used in this act, the following words and
10 phrases shall have the meanings as defined in this section unless
11 the context clearly indicates otherwise:

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

20 (b) "Public agency" means any state or local
21 governmental unit, however designated, including, but not limited
22 to, this state; any department, agency, office, commission, board,
23 division or other entity of this state; any political subdivision
24 of this state, including, but not limited to, a county, city,
25 township, village, school district, community college district or

26 any other local governmental unit, agency, authority, council,
27 board or commission; or any state or local court, tribunal or
28 other judicial or quasi-judicial body.

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

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

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

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

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

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

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

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

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

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

62 **SECTION 3.** (1) A person alleging a violation of this act
63 may bring a civil action for appropriate injunctive relief.

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

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

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

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

78 25-61-3. The following words shall have the meanings
79 ascribed herein unless the context clearly requires otherwise:

80 (a) "Public body" shall mean any department, bureau,
81 division, council, commission, committee, subcommittee, board,
82 agency and any other entity of the state or a political
83 subdivision thereof, and any municipal corporation and any other
84 entity created by the Constitution or by law, executive order,
85 ordinance or resolution. The term "public body" includes the
86 governing board of a charter school authorized by the Mississippi
87 Charter School Authorizer Board. Within the meaning of this
88 chapter, the term "entity" shall not be construed to include
89 individuals employed by a public body or any appointed or elected
90 public official.

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

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

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

110 (e) "Incident report" means a narrative description, if
111 such narrative description exists and if such narrative
112 description does not contain investigative information, of an
113 alleged offense, and at a minimum shall include the name and
114 identification of each person charged with and arrested for the
115 alleged offense, the time, date and location of the alleged
116 offense, and the property involved, to the extent this information
117 is known.

118 (f) "Investigative report" means records of a law
119 enforcement agency containing information beyond the scope of the
120 matters contained in an incident report, and generally will
121 include, but not be limited to, the following matters if beyond
122 the scope of the matters contained in an incident report:

123 (i) Records that are compiled in the process of
124 detecting and investigating any unlawful activity or alleged
125 unlawful activity, the disclosure of which would harm the

126 investigation which may include crime scene reports and
127 demonstrative evidence;

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

130 (iii) Records that would prematurely release
131 information that would impede the public body's enforcement,
132 investigative or detection efforts;

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

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

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

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

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

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

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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 INJUNCTIVE RELIEF FOR
5 VIOLATIONS OF THIS ACT; TO AMEND SECTION 25-61-3, MISSISSIPPI CODE
6 OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
7 PURPOSES.

SS26\HB1205PS.J

Liz Welch
Secretary of the Senate