

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 1205

BY: Committee

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

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)(3) 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
32 501(c)(3) of the Internal Revenue Code to provide the public
33 agency with 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)(3) entity as well as the Section 501(c)(3) entity
39 that received their membership, support, volunteer time or
40 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)(3) 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 damages or both. Damages awarded under this section may include
65 one (1) of the following, as appropriate:



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

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

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

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

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

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

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

88 (a) "Public body" shall mean any department, bureau,
89 division, council, commission, committee, subcommittee, board,
90 agency and any other entity of the state or a political



91 subdivision thereof, and any municipal corporation and any other
92 entity created by the Constitution or by law, executive order,
93 ordinance or resolution. The term "public body" includes the
94 governing board of a charter school authorized by the Mississippi
95 Charter School Authorizer Board. Within the meaning of this
96 chapter, the term "entity" shall not be construed to include
97 individuals employed by a public body or any appointed or elected
98 public official.

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

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



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

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

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

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

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



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

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

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

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

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

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

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

157 **SECTION 7.** This act shall take effect and be in force from
158 and after July 1, 2019, and shall stand repealed on June 30, 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) (3) OF THE INTERNAL REVENUE



3 CODE TO PROVIDE THE PUBLIC AGENCY WITH PERSONAL INFORMATION; TO
4 PROVIDE EXCEPTIONS TO THIS PROHIBITION; TO PROVIDE PENALTIES; TO
5 AMEND SECTION 25-61-3, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
6 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

