

HOUSE BILL No. 1212

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14-3.1.

Synopsis: Privacy of nonprofit donor information. Prohibits, with certain exceptions, a state or local agency (agency) from collecting or disclosing information that identifies an individual or business entity as a member, supporter, volunteer, or donor of financial or nonfinancial support to a nonprofit organization. Permits the filing of an action for declaratory or injunctive relief against an agency regarding the collection or disclosure of personal information. Provides that an agency officer, employee, or board member is liable for actual or liquidated damages for unlawful disclosure of personal information.

Effective: July 1, 2023.

Karickhoff

January 10, 2023, read first time and referred to Committee on Judiciary.



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1212

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-14-3.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]:
4 **Chapter 3.1. Privacy of Nonprofit Donor Information**
5 **Sec. 1. This chapter does not apply to a national securities**
6 **association registered under 15 U.S.C. 780-3 or information**
7 **provided by a national securities association to a public agency.**
8 **Sec. 2. As used in this chapter, "nonprofit organization" means**
9 **an entity that satisfies at least one (1) of the following:**
10 (1) **The entity is exempt from federal income taxation under**
11 **Section 501(c) of the Internal Revenue Code.**
12 (2) **The entity has submitted an application with the Internal**
13 **Revenue Service for recognition of an exemption under**
14 **Section 501(c) of the Internal Revenue Code.**
15 (3) **The entity is a nonprofit business entity organized under**
16 **state law or admitted to transact business in the state as a**
17 **foreign corporation.**



1 **Sec. 3.** As used in this chapter, "person" means an individual,
 2 association, corporation, limited liability company, fiduciary, joint
 3 stock company, joint venture, partnership, sole proprietorship, or
 4 other private legal entity.

5 **Sec. 4.** As used in this chapter, "personal information" means
 6 a list, record, register, registry, roll, roster, or other data
 7 compilation that directly or indirectly identifies a person as a
 8 member, supporter, volunteer, or donor of financial or
 9 nonfinancial support to a nonprofit organization.

10 **Sec. 5.** As used in this chapter, "public agency" means an
 11 authority, board, branch, commission, committee, department,
 12 division, or other instrumentality of the following:

- 13 (1) The executive, including the administrative, department of
 14 state government.
- 15 (2) The judicial department of state government.
- 16 (3) The legislative department of state government.
- 17 (4) A state educational institution.
- 18 (5) A political subdivision (as defined in IC 36-1-2-13).
- 19 (6) A body corporate and politic created by statute.

20 **Sec. 6.** Notwithstanding any other statute, a public agency may
 21 not:

- 22 (1) require any individual or nonprofit organization to
 23 provide the public agency with personal information or
 24 otherwise compel the release of personal information;
- 25 (2) request or require a current or prospective:
 26 (A) contractor for; or
 27 (B) recipient of a grant from;
 28 a public agency to provide the public agency with a list of
 29 nonprofit organizations to which the current or prospective
 30 contractor or recipient of a grant has provided financial or
 31 nonfinancial support; or
- 32 (3) disclose a person's personal information in response to a
 33 request for inspection and copying under IC 5-14-3;
 34 except to the extent authorized under section 7 of this chapter.

35 **Sec. 7.** This chapter does not prohibit the following:

- 36 (1) A public agency from requesting, requiring, or disclosing
 37 personal information as required by federal law.
- 38 (2) A public agency from requesting or requiring personal
 39 information for purposes of:
 40 (A) campaign finance reporting under IC 3-9-5;
 41 (B) a registration or report of the Indiana lobby
 42 registration commission under IC 2-7;



- 1 (C) a disclosure of a conflict of interest under IC 4-2-6;
 2 (D) a statement of economic interest under IC 2-2.2;
 3 (E) an appointment to judicial office by a judicial
 4 nominating commission under IC 33-27-3, IC 33-33-2,
 5 IC 33-33-45, or IC 33-33-71; or
 6 (F) the licensing of a qualified organization under
 7 IC 4-32.3-4.
- 8 (3) Disclosure of personal information by a public agency by
 9 order of a court of competent jurisdiction.
- 10 (4) A request for discovery of personal information from a
 11 person if the requestor:
 12 (A) demonstrates a compelling need for the personal
 13 information by clear and convincing evidence; and
 14 (B) obtains a protective order barring disclosure of the
 15 personal information to a person or another entity that is
 16 not a party in the litigation.
- 17 (5) Admission of personal information as relevant evidence in
 18 a court of competent jurisdiction. However, a court may not
 19 make a public disclosure of personal information without a
 20 specific finding of good cause.
- 21 (6) A public agency's disclosure of personal information that
 22 was previously voluntarily disclosed by the person or
 23 nonprofit organization to the public.
- 24 (7) Requesting or requiring disclosure of the identity of:
 25 (A) a director;
 26 (B) an officer;
 27 (C) a registered agent; or
 28 (D) an incorporator;
 29 of a nonprofit organization in a report required by law to be
 30 filed with the office of the secretary of state. However,
 31 information that directly identifies an individual as a donor of
 32 financial support to a nonprofit organization may not be
 33 disclosed.
- 34 (8) Disclosure of an individual's personal information:
 35 (A) derived from a donation to a nonprofit organization
 36 affiliated with a public agency; and
 37 (B) required by state statute;
 38 if the individual has not previously requested anonymity from
 39 the nonprofit organization.
- 40 **Sec. 8. A person may file a civil action for declaratory or**
 41 **injunctive relief with regard to an agency's collection or disclosure**
 42 **of personal information.**



1 **Sec. 9. If an employee, board member, or officer of an agency**
2 **discloses personal information in violation of this chapter, a**
3 **plaintiff may recover from the officer, board member, or**
4 **employee:**
5 **(1) the plaintiff's actual damages resulting from the**
6 **disclosure; or**
7 **(2) liquidated damages in the amount of ten thousand dollars**
8 **(\$10,000).**
9 **If the court finds the defendant disclosed personal information in**
10 **violation of this chapter, the court shall award court costs,**
11 **including reasonable attorney's fees, to the plaintiff in the action.**

