

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 ENROLLED ACT No. 1212

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

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

SECTION 1. IC 5-14-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:

**Chapter 3.1. Privacy Protections of Nonprofit Organizations**

**Sec. 1. The personal information of a member, supporter, volunteer, or donor of a nonprofit organization (as defined in IC 23-17-32-3) is subject to certain protections under IC 23-17-32.**

SECTION 2. IC 23-17-32 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:

**Chapter 32. Nonprofit Organizations: Privacy Protections for Members, Volunteers, and Donors**

**Sec. 1. This chapter does not apply to:**

- (1) a national securities association that is registered:**
  - (A) under Section 15(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3); and**
  - (B) in accordance with any regulations adopted under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); or**
- (2) any information a national securities association described in subdivision (1) provides to the secretary of state under IC 23-19 or under rules adopted or orders issued under**

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**IC 23-19.**

**Sec. 2.** As used in this chapter, "nonprofit hospital" means a hospital licensed under IC 16-21:

- (1) that is organized as a nonprofit organization or charitable trust; and
- (2) that is:
  - (A) eligible for tax exempt bond financing; or
  - (B) exempt from state or local taxes.

The term does not include a county hospital or municipal hospital licensed under IC 16-21-2 that is governed by IC 16-22-2, IC 16-22-8, or IC 16-23.

**Sec. 3.** As used in this chapter, "nonprofit organization" means one (1) of the following:

- (1) A domestic corporation (as defined in IC 23-17-2-11).
- (2) A foreign corporation (as defined in IC 23-17-2-13).
- (3) An entity that is exempt from federal income tax under Section 501(c) of the Internal Revenue Code.
- (4) An entity that has submitted an application with the Internal Revenue Service for recognition of an exemption under Section 501(c) of the Internal Revenue Code.

**Sec. 4.** As used in this chapter, "person" has the meaning set forth in IC 23-17-2-20.

**Sec. 5.** As used in this chapter, "personal information" means any compilation of data (including any list, record, registry, roll, or roster) that directly or indirectly identifies a person as a:

- (1) member of;
- (2) supporter of;
- (3) volunteer for; or
- (4) donor of financial or nonfinancial support to;

a nonprofit organization.

**Sec. 6.** As used in this chapter, "public agency" means a:

- (1) state agency (as defined in IC 1-1-15-3); or
- (2) political subdivision (as defined in IC 36-1-2-13).

**Sec. 7.** (a) Except as provided in subsection (b), a public agency shall not do any of the following:

- (1) Require or otherwise compel any person or nonprofit organization to provide the public agency with personal information.
- (2) Release, publicize, or otherwise publicly disclose personal information in the possession of the public agency.
- (3) Request or require a current or prospective:
  - (A) contractor for; or



**(B) grantee of;**  
**the public agency to provide a list of nonprofit organizations to which the current or prospective contractor or grantee has provided financial or nonfinancial support.**

**(b) Subsection (a) does not apply with respect to any of the following:**

- (1) Any report or disclosure required under state:**
    - (A) campaign finance law as required by IC 3-9-5;**
    - (B) lobbying disclosure law as required by IC 2-7; or**
    - (C) access to information, including personal information as required by IC 2-5-1.7.**
  - (2) A lawful order or warrant, issued by a court of competent jurisdiction, for the provision, disclosure, or release of personal information.**
  - (3) A lawful request for discovery of personal information in the context of litigation if the following conditions are met:**
    - (A) The requesting party or person demonstrates, by clear and convincing evidence, as determined by the court, a compelling need for the personal information.**
    - (B) The requesting party or person obtains a protective order, issued by the court, barring disclosure of the personal information to any person not named as a party in the litigation.**
  - (4) Admission of personal information as relevant evidence before a court of competent jurisdiction. However, a court may not publicly disclose or release personal information without a specific finding of good cause.**
  - (5) Release by a public agency of personal information that was voluntarily released by:**
    - (A) the person to whom the personal information pertains;**
    - or**
    - (B) the nonprofit organization with which the personal information is associated;**
- to the public.**
- (6) A collection of information that:**
    - (A) includes the identity of any director, officer, registered agent, or incorporator of a nonprofit organization; and**
    - (B) is part of any report or disclosure required to be filed with the secretary of state under this article or any other statute.**

**However, information that directly identifies a person as a donor of financial support to a nonprofit organization shall**



not be collected by or disclosed to the secretary of state.

**(7) Disclosure of personal information that is derived from a financial donation to a nonprofit organization that is affiliated with a public agency if:**

**(A) the disclosure is required by statute; and**

**(B) the person to whom the personal information pertains has not previously made a request for anonymity to the nonprofit organization.**

**(8) Information collected in an examination by the state board of accounts under IC 5-11-1-9. The information collected under IC 5-11-1-9 must be directly related to the examination by the state board of accounts or a related proceeding. Information collected under IC 5-11-1-9 may not be disclosed to the public, unless disclosure is expressly required by statute.**

**(9) A request by the attorney general for information required for an audit, examination, review, or investigation. The request from the attorney general must be directly related to the audit, examination, review, or investigation being completed. Information collected pursuant to an audit, examination, review, or investigation by the attorney general shall not be disclosed to the public, unless disclosure is expressly required by statute.**

**(10) Information submitted by a vendor to the auditor of state for the purpose of receiving payment from the state under IC 4-13-2-14.8 or IC 5-11-10-1.6. Information that directly identifies a person as a donor of financial support to a nonprofit organization shall not be collected by or disclosed to the auditor of state unless it is voluntarily submitted by the nonprofit organization.**

**(11) Information requested or submitted for the purpose of licensing a qualified organization under IC 4-32.3-4. The information collected under IC 4-32.3-4 shall not be disclosed to the public, unless disclosure is expressly required by statute.**

**(12) Personal information that a public agency requests from a nonprofit hospital for a legitimate business purpose of the public agency.**

**(c) Personal information is considered confidential and is not subject to disclosure under IC 5-14-3.**

**Sec. 8. (a) A person alleging a violation of this chapter may bring a civil action in a court of competent jurisdiction for either**



or both of the following:

(1) Injunctive relief.

(2) Damages as follows:

(A) A sum of money:

(i) to be determined by the court; but

(ii) not less than two thousand five hundred dollars (\$2,500);

per violation to compensate the person for injury or loss caused by the violation.

(B) If the court finds that the violation was intentional, an increased sum of money in an amount not to exceed three

(3) times the amount that would otherwise be awarded under clause (A).

(b) A court, in rendering a judgment in an action brought under this section, may award all or part of the costs of the action, including reasonable attorney's fees and witness fees, to the complainant in the action if the court determines that the award is appropriate.

Sec. 9. Any:

(1) public employee;

(2) public official; or

(3) employee or officer of a:

(A) contractor; or

(B) subcontractor;

of a public agency;

who violates this chapter is subject to penalties and discipline set forth in IC 5-14-3-10.



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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