

2020 Regular Session

HOUSE BILL NO. 303

BY REPRESENTATIVE WRIGHT

PUBLIC RECORDS: Prohibits the disclosure of information regarding the membership of, volunteers of, or donors to a nonprofit organization

1 AN ACT

2 To enact R.S. 44:9, relative to public bodies and records; to provide for the confidential
3 nature of the records of certain nonprofit organizations; to prohibit certain actions
4 and requirements relative to the disclosure of certain information regarding certain
5 nonprofit organizations; to provide for a crime related to such disclosure; to provide
6 for criminal and civil penalties; to provide for definitions; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. The provisions of this Act shall be known and may be cited as the
10 Personal Privacy Protection Act.

11 Section 2. R.S. 44:9 is hereby enacted to read as follows:

12 §9. Records of certain nonprofit organizations; confidentiality; civil and criminal
13 penalties

14 A. Notwithstanding any provisions of this Chapter or any other law to the
15 contrary, excluding Subsection C of this Section, no public body shall:

16 (1) Require any person, including a nonprofit, to provide the public body
17 with personal information or otherwise compel the release of personal information.

18 (2) Release, publicize, or otherwise publicly disclose personal information
19 in its custody or control.

1 (3) Request or require a current or prospective contractor or grantee to
2 provide the public body with a list of nonprofits to which the contractor or grantee
3 has provided financial or nonfinancial support.

4 B. Any personal information in the custody or control of a public body shall
5 be confidential and shall not be disclosed pursuant to the provisions of this Chapter.

6 C. The provisions of Subsections A and B of this Section shall not preclude
7 any of the following:

8 (1) Any report or disclosure required by the Campaign Finance Disclosure
9 Act, the Code of Governmental Ethics, or the provisions of law relative to lobbyist
10 disclosure including Part III of Chapter 1 of Title 24 of the Louisiana Revised
11 Statutes of 1950, Part IV of Chapter 1 of Title 49 of the Louisiana Revised Statutes
12 of 1950, and Chapter 46 of Title 33 of the Louisiana Revised Statutes of 1950.

13 (2) Any lawful warrant for personal information issued by a court of
14 competent jurisdiction.

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

17 (a) The requestor demonstrates a compelling need for the personal
18 information by clear and convincing evidence.

19 (b) The requestor obtains a protective order barring disclosure of personal
20 information to any person not directly involved in the litigation.

21 (4) Admission of personal information as relevant evidence before a court
22 of competent jurisdiction; however, no court shall cause personal information to be
23 publicly revealed absent a specific finding of good cause.

24 D.(1) Any person alleging a violation of this Section may bring a civil action
25 for appropriate injunctive relief, damages, or both, in the district court for the parish
26 in which the office of the public body is located.

27 (a) The damages awarded to a person for violations of this Section may
28 include one of the following:

1 (i) A civil penalty of not less than two thousand five hundred dollars to
2 compensate for injury or loss caused by each violation of this Section.

3 (ii) For an intentional violation of this Section, a civil penalty of not more
4 than seven thousand five hundred dollars.

5 (b) Further, in addition to the damages provided in Paragraph (1) of this
6 Subsection, if the court finds a violation of this Section, the court may award the
7 person reasonable attorney fees and other costs of litigation.

8 (2) Any person, official, or employee of a public body who knowingly
9 violates the provisions of this Section shall be guilty of a misdemeanor punishable
10 by imprisonment for not more than ninety days or a fine of not more than one
11 thousand dollars, or both.

12 E. For the purposes of this Section the following terms and phrases shall
13 have the following meanings:

14 (1) The term "nonprofit" shall mean a nonprofit organization which is tax
15 exempt pursuant to Section 501(c) of the Internal Revenue Code.

16 (2) The term "person" shall mean an individual or legal entity.

17 (3) The phrase "personal information", shall mean any list, record, register,
18 registry, roll, roster, or other compilation of data of any kind that directly or
19 indirectly identifies a person as a member, supporter, or volunteer of a nonprofit or
20 a donor of financial or nonfinancial support to a nonprofit.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 303 Original

2020 Regular Session

Wright

Abstract: Prohibits public bodies from requiring or disclosing defined personal information regarding 501(c) organizations and provides exceptions. Also establishes criminal penalties and civil damages and authorizes reasonable attorney fees and costs of litigation for violations.

Present law (R.S. 44:1 et seq.–Public Records Law) provides that all records regardless of physical form or characteristics, including information contained in electronic data processing equipment, 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 which was conducted, transacted, or performed by or under the authority of the constitution or laws of the state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of the state are "public records". Present law establishes a framework for the ready availability of public records to requesting persons and specifically provides that it is the duty of the custodian of the public records of a public entity or agency to provide copies to persons so requesting. Provides for certain exceptions, exemptions, and limitations. Present law provides relative to the award reasonable attorney fees and other costs of litigation in a suit regarding access to a record and provides that an award for attorney fees shall not exceed the amounts approved by the attorney general for the employment of outside counsel. Further authorizes the court to award the requester civil penalties not to exceed \$100 per day, exclusive of Saturdays, Sundays, and legal public holidays, if the custodian unreasonably or arbitrarily failed to respond to the request for a record. Present law defines "public body" for its purposes.

Proposed law defines "nonprofit" as a nonprofit organization which is tax exempt pursuant to Section 501(c) of the Internal Revenue Code; "person" as an individual or legal entity; and "personal information" as any list, record, or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, or volunteer of or a donor of financial or nonfinancial support to a nonprofit.

Proposed law prohibits, notwithstanding any provision of present law, a public body from:

- (1) Requiring any person to provide the public body with personal information or otherwise compel the release of personal information.
- (2) Publicly disclosing personal information in its custody or control.
- (3) Requesting or requiring any current or prospective contractor or grantee to provide a list of nonprofits to which it has provided financial or nonfinancial support.

Proposed law explicitly provides that personal information shall be confidential and further prohibits a public body from disclosing it pursuant to the Public Records Law.

Proposed law provides exceptions for reports and disclosures required by present law (Code of Governmental Ethics, Campaign Finance Disclosure Law, and provisions relative to lobbyist disclosure). Provides additional exceptions for lawful warrants; lawful requests for discovery if there is clear and convincing evidence of a compelling need and a protective order barring disclosure to any person not directly involved in the litigation; and admission as relevant evidence in court, provided that no court shall publicly cause such disclosure absent a specific finding of good cause.

Proposed law provides for civil actions for appropriate injunctive relief, damages, or both, in the district court for the parish in which the office of the public body is located. Provides that damages may include a civil penalty of not less than \$2,500 to compensate loss caused by each violation, or for an intentional violation, a civil penalty of not more than \$7,500. Additionally authorizes the court to award the person reasonable attorney fees and other costs of litigation.

Proposed law provides that it is a misdemeanor for any person or official or employee of a public body to knowingly violate proposed law and that such crime shall be punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000, or both.

(Adds R.S. 44:9)