

HOUSE BILL 2082

By Dunn

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 4; Title 8, Chapter 4; Title 10, Chapter 7; Title 39; Title 47, Chapter 18; Title 49, Chapter 7; Title 50, Chapter 1 and Title 67, relative to protecting personally identifying information in public records.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 10-7-503(a)(1), is amended by deleting the subdivision and substituting instead the following:

(1) As used in this part and title 8, chapter 4, part 6:

(A) "Public record or records" or "state record or records":

(i) Means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental entity; and

(ii) Does not include the device or equipment, including, but not limited to, a cell phone, computer, or other electronic or mechanical device or equipment, that may have been used to create or store a public record or state record;

(B) "Public records request coordinator" means any individual within a governmental entity whose role it is to ensure that public records requests are routed to the appropriate records custodian and that requests are fulfilled in accordance with § 10-7-503(a)(2)(B); and

(C) "Records custodian" means any office, official, or employee of any governmental entity lawfully responsible for the direct custody and care of a public record.

SECTION 2. Tennessee Code Annotated, Section 10-7-503, is further amended by deleting subdivisions (a)(4) and (5) and substituting instead the following:

(4) This section shall not be construed as requiring a governmental entity to sort through files to compile information or to create or recreate a record that does not exist. Any request for inspection or copying of a public record shall be sufficiently detailed to enable the governmental entity to identify the specific records for inspection and copying.

(5) Information made confidential by state law shall be redacted whenever possible, and the redacted record shall be made available for inspection and copying. The redaction of confidential information shall not constitute the creation of a new record. Costs associated with redacting records, including the cost of copies and staff time to provide redacted copies, shall be borne as provided by law.

SECTION 3. Tennessee Code Annotated, Sections 10-7-503(a)(7)(B) and (c)(2), are amended by deleting the subdivisions.

SECTION 4. Tennessee Code Annotated, Section 10-7-503, is further amended by adding the following language as a new subsection:

() No later than January 1, 2017, every governmental entity subject to this section shall establish a written public records policy properly adopted by the appropriate governing authority. The public records policy shall not impose requirements on those requesting records that are more burdensome than state law and shall include:

(1) The process for making requests to inspect public records or receive copies of public records and a copy of any required request form;

(2) The process for responding to requests, including redaction practices;

(3) A statement of any fees charged for copies of public records and the procedures for billing and payment; and

(4) The name or title and the contact information of the individual or individuals within such governmental entity designated as the public records request coordinator.

SECTION 5. Tennessee Code Annotated, Section 10-7-504(a), is amended by adding the following as a new subdivision:

(28)

(A) No governmental entity shall publicly disclose personally identifying information of any citizen of the state unless:

(i) Permission is given by the citizen;

(ii) Distribution is authorized under state or federal law; or

(iii) Distribution is made:

(a) To a consumer reporting agency as defined by the federal Fair Credit Reporting Act (15 U.S.C. §§ 1681 et seq.);

(b) To a financial institution subject to the privacy provisions of the federal Gramm Leach Bliley Act (15 U.S.C. § 6802); or

(c) To a financial institution subject to the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (31 U.S.C. §§ 5311 et seq.).

(B)

(i) This subdivision (a)(28) does not prohibit the use of personally identifying information by a governmental entity in the performance of its functions or the disclosure of personally identifying information to another

governmental entity, or an agency of the federal government, or a private person or entity that has been authorized to perform certain duties as a contractor of the governmental entity.

(ii) Any person or entity receiving personally identifying information from a governmental entity shall be subject to the same confidentiality provisions as the disclosing entity; provided, however, that the confidentiality provisions applicable to a consumer reporting agency or financial institution as defined in subdivision (a)(28)(A)(iii) shall be governed by federal law.

(C) For purposes of this subdivision (28), "personally identifying information" means:

- (i) Social security numbers;
- (ii) Official state or government issued driver licenses or identification numbers;
- (iii) Alien registration numbers or passport numbers;
- (iv) Employer or taxpayer identification numbers;
- (v) Unique biometric data, such as fingerprints, voice prints, retina or iris images, or other unique physical representations; or
- (vi) Unique electronic identification numbers, addresses, routing codes or other personal identifying data which enables an individual to obtain merchandise or service or to otherwise financially encumber the legitimate possessor of the identifying data.

SECTION 6. Tennessee Code Annotated, Section 4-4-125, is amended by deleting the section in its entirety.

SECTION 7. Tennessee Code Annotated, Section 8-4-604(a), is amended by adding the following as a new subdivision:

(4) A model best practices and public records policy for use by a records custodian in compliance with § 10-7-503. Before publishing any final version of a model best practices and policy, the office of open records counsel shall consult with the advisory committee on open government.

SECTION 8. This act shall take effect July 1, 2016, the public welfare requiring it.