

By: Campbell
(Hernandez)

S.B. No. 958

Substitute the following for S.B. No. 958:

By: Slawson

C.S.S.B. No. 958

A BILL TO BE ENTITLED

AN ACT

relating to the prohibited release by a public agency of personal affiliation information regarding the members, supporters, or volunteers of or donors to certain nonprofit organizations; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle Z, Title 10, Government Code, is amended by adding Chapter 3001 to read as follows:

CHAPTER 3001. GOVERNMENTAL ACTION RELATED TO PERSONAL AFFILIATION INFORMATION

Sec. 3001.001. DEFINITIONS. In this chapter:

(1) "Nonprofit organization" means an entity that is exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt entity under Section 501(c) of that code, has submitted an application with the Internal Revenue Service for recognition of an exemption under Section 501(c) of that code, or is a nonprofit corporation or association organized or formed under the laws of this state or another state.

(2) "Personal affiliation information" means a list, record, registry, roster, or other compilation of any data 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 organization.

1 (3) "Public agency" means a state or local
2 governmental unit, including:

3 (A) this state or a department, agency, office,
4 commission, board, division, or other entity of this state in the
5 executive branch of state government;

6 (B) any state or local court or other judicial or
7 quasi-judicial body in the judicial branch of state government; or

8 (C) a political subdivision of this state,
9 including a county, municipality, school district, community
10 college district, or any other local governmental unit, agency,
11 authority, council, board, or commission.

12 Sec. 3001.002. PROTECTED PERSONAL AFFILIATION INFORMATION.

13 (a) Notwithstanding any other law except Section 3001.003, a
14 public agency or an officer or employee of a public agency may not:

15 (1) require an individual to provide personal
16 affiliation information to the agency or otherwise compel the
17 release of personal affiliation information;

18 (2) require a nonprofit organization to provide
19 personal affiliation information to the agency or otherwise compel
20 the release of personal affiliation information;

21 (3) release, publicize, or otherwise publicly
22 disclose personal affiliation information in the agency's
23 possession; or

24 (4) request or require a current or prospective
25 contractor with or grantee of the agency to provide to the agency a
26 list of nonprofit organizations to which the contractor or grantee
27 has provided financial or nonfinancial support.

1 (b) Personal affiliation information is excepted from
2 release under Chapter 552.

3 Sec. 3001.003. EXCEPTIONS. Section 3001.002 does not apply
4 to:

5 (1) personal affiliation information included in a
6 report required to be filed under state law by a candidate for
7 public office, a public official, or a person required to register
8 as a lobbyist under Chapter 305;

9 (2) a warrant for personal affiliation information
10 issued by a court in this state;

11 (3) a request for discovery of personal affiliation
12 information in an action brought in a court in this state if the
13 requestor:

14 (A) demonstrates by clear and convincing
15 evidence a compelling need for the information; and

16 (B) obtains a protective order barring release of
17 the information to any person not directly involved in the action;

18 (4) personal affiliation information admitted as
19 relevant evidence in an action before a court, provided the court
20 does not publicly release the information unless the court
21 specifically finds good cause for the release;

22 (5) personal affiliation information a public agency
23 releases that was voluntarily released to the public by a person or
24 nonprofit organization to which the information relates;

25 (6) personal affiliation information disclosing the
26 identity of the members of the governing board or a director,
27 officer, registered agent, incorporator, or managerial official of

1 a nonprofit organization in any report, including a report required
2 under state law to be filed with the secretary of state, provided
3 that information directly identifying an individual as a donor of
4 financial support to a nonprofit organization is not collected or
5 disclosed;

6 (7) personal affiliation information that is derived
7 from an individual's donation to a nonprofit organization
8 affiliated with a public agency and is required by state law, unless
9 the individual submitted a request for the nonprofit organization
10 to maintain the individual's anonymity;

11 (8) personal affiliation information obtained by a
12 national securities association registered under Section 15A of the
13 Securities Exchange Act of 1934 (15 U.S.C. Section 78o-3), obtained
14 under regulations adopted under that Act, or provided by a national
15 securities association to a state agency in accordance with that
16 Act and state law;

17 (9) personal affiliation information included in
18 materials submitted to the office of the governor by an applicant
19 who is seeking consideration for a gubernatorial appointment,
20 provided:

21 (A) the office does not require the applicant to
22 submit a list of nonprofit organizations to which the individual
23 has provided financial support; and

24 (B) the applicant is not prohibited from
25 voluntarily providing the list;

26 (10) personal affiliation information the Texas
27 Department of Criminal Justice requests for a criminal history

1 record information check or other security purposes in connection
2 with the provision of any program or service, including volunteer
3 and legal services, to an inmate, releasee, or person on community
4 supervision, provided the information is used only for the record
5 information check or security purposes;

6 (11) personal affiliation information the attorney
7 general obtains in an investigation conducted under Section 17.61,
8 Business & Commerce Code, Section 252.010, Business Organizations
9 Code, or Subchapter B, Chapter 12, Business Organizations Code,
10 provided the collected personal affiliation information:

11 (A) is used only in connection with the specific
12 investigation related to the request and any related proceeding;
13 and

14 (B) complies with Section 3001.002(a)(3), unless
15 the information's disclosure is expressly required by other law;
16 and

17 (12) the attorney general's disclosure of personal
18 affiliation information in court pleadings, submissions of
19 evidence, or public communications related to a criminal proceeding
20 or a civil enforcement action, provided the public communications
21 include personal affiliation information only if the accused party
22 is found guilty in the criminal proceeding or liable in the civil
23 enforcement action.

24 Sec. 3001.004. CIVIL ACTION. A person who alleges a
25 violation of Section 3001.002 may bring a civil action to obtain
26 appropriate:

27 (1) injunctive relief;

1 (2) damages incurred by the person in an amount equal
2 to:

3 (A) not less than \$2,500 as compensatory damages
4 for injury or loss caused by each violation; or

5 (B) a sum not to exceed three times the amount
6 described in Paragraph (A) for each intentional violation; and

7 (3) court costs, including reasonable attorney's and
8 witness fees.

9 Sec. 3001.005. IMMUNITY WAIVED. A person who alleges a
10 violation of Section 3001.002 may sue the public agency for the
11 relief provided under Section 3001.004. Sovereign or governmental
12 immunity, as applicable, is waived and abolished to the extent of
13 liability for that relief.

14 Sec. 3001.006. CRIMINAL PENALTY. A person commits an
15 offense if the person knowingly violates Section 3001.002. An
16 offense under this section is a Class B misdemeanor.

17 SECTION 2. Chapter 3001, Government Code, as added by this
18 Act, applies only to personal affiliation information released or
19 disclosed on or after the effective date of this Act.

20 SECTION 3. This Act takes effect September 1, 2023.