

By: Hernandez

H.B. No. 4585

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;

8 (C) a university system or an institution of
9 higher education, as defined by Section 61.003, Education Code; or

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

14 Sec. 3001.002. PROTECTED PERSONAL AFFILIATION INFORMATION.

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

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

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

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

26 (4) request or require a current or prospective
27 contractor with or grantee of the agency to provide to the agency a

1 list of nonprofit organizations to which the contractor or grantee
2 has provided financial or nonfinancial support.

3 (b) Personal affiliation information is excepted from
4 release under Chapter 552.

5 Sec. 3001.003. EXCEPTIONS. Section 3001.002 does not apply
6 to:

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

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

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

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

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

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

24 (5) personal affiliation information voluntarily
25 released to the public by a person or nonprofit organization;

26 (6) personal affiliation information disclosing the
27 identity of a director, officer, resident agent, or incorporator 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; and

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

20 (1) injunctive relief;

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

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

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

27 (3) court costs, including reasonable attorney's and

1 witness fees.

2 Sec. 3001.005. IMMUNITY WAIVED. A person who alleges a
3 violation of Section 3001.002 may sue the public agency for the
4 relief provided under Section 3001.004. Sovereign or governmental
5 immunity, as applicable, is waived and abolished to the extent of
6 liability for that relief.

7 Sec. 3001.006. CRIMINAL PENALTY. A person commits an
8 offense if the person violates Section 3001.002. An offense under
9 this section is a Class B misdemeanor.

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

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