

As Amended by House Committee

Session of 2022

HOUSE BILL No. 2495

By Committee on Judiciary

1-19

1 AN ACT concerning records; relating to personal information about
2 affiliation with **certain nonprofit** organizations ~~exempt from federal~~
3 ~~income taxation under section 501(e) of the federal internal revenue~~
4 ~~code~~; prohibiting a public agency from disclosing information related
5 to such affiliation and providing exemptions.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. (a) A public agency shall not:

9 (1) Require an individual to provide the public agency with personal
10 information or compel the release of personal information;

11 (2) ~~require any entity that is exempt from federal income taxation~~
12 ~~under section 501(e) of the federal internal revenue code~~ **a nonprofit**
13 **organization** to provide the public agency with personal information or
14 compel the release of personal information;

15 (3) release or publicly disclose personal information in the possession
16 of such public agency; or

17 (4) request or require a current or prospective contractor or grant
18 recipient to provide the public agency with a list of ~~entities that are exempt~~
19 ~~from federal income taxation under section 501(e) of the federal internal~~
20 ~~revenue code~~ **nonprofit organizations** to which the contractor or grantee
21 has provided financial or nonfinancial support.

22 (b) Personal information shall be confidential and shall not be subject
23 to the open records act, K.S.A. 45-215 et seq., and amendments thereto.
24 The provisions of this subsection shall expire on July 1, 2027, unless the
25 legislature reviews and reenacts this provision pursuant to K.S.A. 45-229,
26 and amendments thereto.

27 (c) The provisions of this section shall not apply to:

28 (1) ~~Any~~**A** report or disclosure required by article 41 of chapter 25 or
29 article 2 of chapter 46 of the Kansas Statutes Annotated, and amendments
30 thereto;

31 (2) a valid warrant issued for personal information by a court of
32 competent jurisdiction;

33 (3) a lawful request for discovery of personal information in litigation
34 if the person making such request:

35 (A) Demonstrates a compelling need for the personal information by
36 clear and convincing evidence; and

1 (B) obtains a protective order barring disclosure of the personal
2 information to any person not named in the litigation;

3 (4) admission of personal information as relevant evidence before a
4 court of competent jurisdiction, except that no court shall disclose personal
5 information unless such court makes a finding of good cause; ~~and~~

6 (5) a national securities association as defined in section 15A of the
7 securities exchange act of 1934, as in effect on July 1, 2022, or any
8 regulations adopted thereunder;

9 (6) **any adult care home as defined in K.S.A. 39-923, and**
10 **amendments thereto;**

11 (7) **information provided to the attorney general as part of the**
12 **registration process, or collected as part of the enforcement of, the**
13 **charitable organizations and solicitations act, K.S.A. 17-1759 et seq.,**
14 **and amendments thereto, except that information that directly**
15 **identifies an individual as a donor of financial support to a nonprofit**
16 **organization shall not be disclosed without the consent of the donor;**

17 (8) **information provided to the attorney general by any person,**
18 **including, but not limited to, a consumer, supplier or related witness,**
19 **collected as part of the enforcement of the Kansas consumer**
20 **protection act, K.S.A. 50-623 et seq., and amendments thereto, except**
21 **that information that directly identifies an individual as a donor of**
22 **financial support to a nonprofit organization shall not be disclosed**
23 **without the consent of the donor;**

24 (9) **information concerning the staff, officers and the individuals**
25 **designated to control funding needed to process and verify a request**
26 **for a grant of funds from or a contract for goods or services with any**
27 **public agency, except that information that directly identifies an**
28 **individual as a donor of financial support to a nonprofit organization**
29 **shall not be disclosed;**

30 (10) **a request by the department of revenue for information**
31 **required for an audit, examination or investigation, except that such**
32 **information shall only be used in connection with the specific audit,**
33 **examination or investigation and for any related proceedings; and**

34 (11) **the collection of information related to boards of directors,**
35 **officers, resident agents, incorporators and large capital holders of an**
36 **organization in any report or disclosure required by any statute to be**
37 **made with the secretary of state with the intent that it becomes a**
38 **public record, except that information that directly identifies an**
39 **individual as a donor of financial support to a nonprofit organization**
40 **shall not be disclosed.**

41 (d) (1) A person alleging a violation of this section may bring a civil
42 action for injunctive relief or damages. Damages awarded pursuant to this
43 section shall be not less than \$7,500 for each violation of this section.

1 (2) The court may award reasonable attorney fees and costs to the
2 complainant when the court determines such award is appropriate.

3 (3) A person who knowingly violates the provisions of this section is
4 guilty of a class C nonperson misdemeanor.

5 (e) For the purposes of this section:

6 (1) **"Nonprofit organization" means an organization that is**
7 **exempt from federal income taxation pursuant to section 501(c) of the**
8 **federal internal revenue code, has submitted an application with the**
9 **internal revenue service for recognition of an exemption under section**
10 **501(c) of the federal internal revenue code or is a not-for-profit**
11 **business entity organized under the Kansas general corporation code;**

12 (2) "personal information" means any list, record, register, registry,
13 roll, roster or other compilation of data of any kind that directly or
14 indirectly identifies a person as a member, supporter or volunteer of or
15 donor of financial or nonfinancial support to ~~any entity that is exempt from~~
16 ~~federal income taxation pursuant to section 501(c) of the federal internal~~
17 ~~revenue code~~ **a nonprofit organization;** and

18 ~~(2)~~**(3)** "public agency" means the state or any political or taxing
19 subdivision of the state or any office, agency or instrumentality thereof.

20 (f) This section shall be known and may be cited as the charitable
21 privacy act.

22 Sec. 2. This act shall take effect and be in force from and after its
23 publication in the statute book.