

HOUSE BILL 2665

By Williams

AN ACT to amend Tennessee Code Annotated, Title 2;
Title 3; Title 4; Title 5; Title 6; Title 7; Title 10; Title
12; Title 39; Title 40 and Title 41, relative to
privacy.

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

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 13, Part 6, is amended by adding the following as a new section:

(a) This section shall be known and may be cited as the "Personal Privacy Protection Act."

(b) As used in this section:

(1) "Federal agency" means the United States, the president of the United States, the Tennessee Valley authority, and any other authority, agency, instrumentality, or corporation of the United States;

(2) "Law enforcement agency" means a lawfully established state or local public agency that is responsible for the prevention and detection of crime, local government code enforcement, and the enforcement of penal, traffic, regulatory, game, or controlled substance laws;

(3) "Nonfinancial support" means gifts of securities, real property, services, or other in-kind donations;

(4) "Personal information" means any list, record, register, registry, roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, or volunteer of, or donor of financial or nonfinancial support to, any entity exempt from federal income tax under § 501(c) of the Internal Revenue Code; and

(5) "Public agency" means any state or local governmental unit, however designated, including, but not limited to, this state; any department, agency, office, commission, board, division, or other entity of this state; any political subdivision of this state, including, but not limited to, a county, county with a metropolitan form of government, city, township, village, school district, community college district, or any other local agency, authority, council, board, or commission; or any state or local court, tribunal, or other judicial or quasi-judicial body.

(c) Notwithstanding any law, and subject to subsection (e) and subsection (i), a public agency shall not:

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

(2) Require an entity exempt from federal income tax under § 501(c) of the Internal Revenue Code to provide the public agency with personal information of its members, supporters, volunteers, or donors, or otherwise compel the release of that personal information;

(3) Release, publicize, or otherwise publicly disclose personal information in possession of a public agency; or

(4) Request or require a current or prospective contractor or grantee with the public agency to provide the public agency with a list of entities exempt from federal income tax under § 501(c) of the Internal Revenue Code to which it has provided financial or nonfinancial support.

(d) Personal information is confidential and not an open record pursuant to title 10, chapter 7, unless a federal agency may lawfully obtain such personal information from the applicable individual or entity pursuant to federal law.

(e) This section does not preclude:

(1) A report or disclosure required by title 2, chapter 10;

(2) A report or disclosure required by title 3, chapter 6;

(3) The disclosure of personal information amongst law enforcement agencies pursuant to an active investigation;

(4) A lawful warrant for personal information issued by a court of competent jurisdiction;

(5) A lawful request for discovery of personal information in litigation if the following conditions are met:

(A) The requestor demonstrates a compelling need for the personal information by clear and convincing evidence; and

(B) The requestor obtains a protective order barring disclosure of the personal information to any person not directly involved in the litigation; or

(6) Admission of personal information as relevant evidence before a court of competent jurisdiction. However, no court shall publicly reveal personal information absent a specific finding of good cause.

(f) A person alleging a violation of this section may bring a civil action for appropriate injunctive relief, damages, or both. Damages awarded under this section may include one (1) of the following, as appropriate:

(1) A sum of money not more than two thousand five hundred dollars (\$2,500) to compensate for injury or loss caused by each violation of this section; or

(2) For an intentional violation of this section, a sum of money not more than seven thousand five hundred dollars (\$7,500).

(g) In addition to the damages awarded under subsection (f), a court, in rendering a judgment in an action brought under this section, may award all or a portion

of the costs of litigation, including reasonable attorney and witness fees, to the complainant in the action if the court determines that the award is appropriate.

(h) A person who knowingly violates this section commits a Class B misdemeanor.

(i) Notwithstanding subsection (c), the comptroller of the treasury or the comptroller of the treasury's designated representative shall have access to personal information for purposes of audit or investigation. The comptroller of the treasury or the comptroller of the treasury's designated representative having such access shall maintain the confidential nature of the personal information.

SECTION 2. This act shall take effect July 1, 2020, the public welfare requiring it, and shall apply to prohibited conduct occurring on or after that date.