

1 State of Arkansas *As Engrossed: S4/5/21 H4/15/21*

2 93rd General Assembly

A Bill

3 Regular Session, 2021

SENATE BILL 535

4

5 By: Senator B. Davis

6 By: Representatives Ray, McCollum

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For An Act To Be Entitled

9 AN ACT TO CREATE THE *GOVERNMENT INTERACTION WITH*
10 *NONPROFIT ENTITIES ACT*; TO REGULATE PUBLIC AGENCY
11 INTERACTION WITH A NONPROFIT ENTITY; TO AMEND THE LAW
12 CONCERNING DISCLOSURE OF INFORMATION MAINTAINED BY
13 NONPROFIT ENTITIES; TO CREATE A MISDEMEANOR OFFENSE
14 FOR THE DISCLOSURE OF PRIVATE INFORMATION OF A
15 NONPROFIT ENTITY; AND FOR OTHER PURPOSES.

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Subtitle

19 *TO CREATE THE GOVERNMENT INTERACTION WITH*
20 *NONPROFIT ENTITIES ACT.*

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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24

25 SECTION 1. Arkansas Code Title 4, Chapter 4, is amended to add an
26 additional section to read as follows:

27 4-28-418. *Limitations on regulation by a public agency.*

28 (a) Except where specifically required or authorized by federal law,
29 no state agency or state official shall impose an annual filing or reporting
30 requirement on an *nonprofit organization*, regulated or specifically exempted
31 from regulation under this chapter, that is more stringent, restrictive, or
32 expansive than the requirements authorized by state statute.

33 (b) The exception under subsection (a) of this section shall not:

34 (1) Apply to:

35 (A) State grants and contracts;

36 (B) Fraud investigations;



1 (C) Regulation or licensing of entities by the Department
2 of Human Services; or

3 (D) Regulation or licensing by the Department of Labor and
4 Licensing;

5 (2) Restrict enforcement actions against specific nonprofit
6 organizations; and

7 (3) Restrict or limit the functions, powers, and duties granted
8 to the Attorney General to investigate violations of state or federal law and
9 to enforce state or federal law.

10
11 SECTION 2. Arkansas Code Title 25, Chapter 1, is amended to add an
12 additional subchapter to read as follows:

13 Subchapter 6 –

14 Public Agency Interaction With Nonprofit Entities

15
16 25-1-601. Title.

17 This subchapter shall be known and may be cited as the "Government
18 Interaction with Nonprofit Entities Act".

19
20 25-1-602. Legislative intent.

21 The General Assembly finds that this subchapter is needed to prohibit
22 public agencies from disclosing or releasing personal information about
23 membership, volunteers, and financial and nonfinancial donors to 501(c)
24 nonprofit organizations, except as required by law.

25
26 25-1-603. Definitions.

27 As used in this subchapter:

28 (1) "Person" means an individual, proprietorship, firm,
29 partnership, joint venture, syndicate, labor union, business trust, company,
30 corporation, association, committee, or any other organization or group of
31 persons acting in concert;

32 (2) "Personal information" means a list, record, register,
33 registry, roll, roster or other compilation of data that identifies a person
34 as a member, supporter, volunteer of, or donor of financial or nonfinancial
35 support to an entity exempt from federal income tax under Section 501(c) of
36 the Internal Revenue Code; and

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

3 (A) Department, division, agency, office, commission,
4 board, or other government organization;

5 (B) Political subdivision, including a county, city, town,
6 municipality, or conservation district;

7 (C) Public school, school district, charter school, or
8 public institution of higher education; or

9 (D) Judicial or quasi-judicial body.

10
11 25-1-604. Protection of personal information.

12 (a) Except as provided in subsection (b) of this section, a public
13 agency may not:

14 (1) Require a person to provide the public agency with personal
15 information or otherwise compel the release of personal information;

16 (2) Require an entity exempt from federal income tax under
17 Section 501(c) of the Internal Revenue Code to provide the public agency with
18 personal information or compel the entity to release personal information;

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

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

26 (b) Subsection (a) of this section does not apply to a disclosure of
27 personal information:

28 (1) Required under a specific requirement relating to reporting
29 campaign contributions, campaign expenditures, lobbying disclosures, or
30 lobbying expenditures;

31 (2) Expressly required by law;

32 (3) As part of a public comment or in a public meeting;

33 (4) In another manner that is publicly accessible;

34 (5) Pursuant to a warrant or court order issued by a court of
35 competent jurisdiction;

36 (6) Made by a lawful discovery request for personal information

1 in litigation or a criminal proceeding;

2 (7)(A) Used in a legal proceeding.

3 (B) A court of competent jurisdiction may consider whether

4 to:

5 (i) Limit a request for discovery of personal

6 information; or

7 (ii) Issue a protective order in relation to the

8 disclosure of personal information obtained or used in relation to a legal

9 proceeding;

10 (8) Requested or used by the Department of Finance and

11 Administration for the administration of tax or motor vehicle laws;

12 (9) Used or accessed by Arkansas Legislative Audit or any other

13 public agency with oversight function over a government grant program for the

14 purpose of an audit specific to the grant program funds and that the

15 information accessed is limited to information related to the public agency

16 grant program or grant program funds; or

17 (10) Requested or used by the State Securities Department for

18 the administration of the Arkansas Securities Act, § 23-42-101 et seq.

19 (d) Personal information about membership, volunteers, and financial

20 and nonfinancial donors to 501(c) nonprofit organizations maintained by a

21 public agency is not a public record and is exempt from release or disclosure

22 under the Freedom of Information Act of 1967, § 25-19-101 et seq.

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24 25-1-605. Private cause of action – Enforcement – Penalty.

25 A person that knowingly violates this subchapter is guilty of a Class C

26 misdemeanor.

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28 /s/B. Davis

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31 **APPROVED: 4/29/21**