

House Bill 1113

By: Representatives Reeves of the 99th, Gunter of the 8th, Smith of the 18th, Leverett of the 123rd, Silcox of the 53rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to state
2 printing and documents, so as to prohibit the collecting of certain personal information; to
3 prohibit the release of certain personal information; to create exceptions; to exclude certain
4 information from state open records laws; to create the crime of improper collection or
5 disclosure of personal information; to provide a short title; to provide for related matters; to
6 repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as the "Personal Privacy Protection Act."

10 **SECTION 2.**

11 Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to state printing
12 and documents, is amended by adding a new article to read as follows:

13 "ARTICLE 8

14 50-18-160.

15 (a) As used in this Code section, the term:

16 (1) 'Nonprofit organization' means an entity that is exempt from federal income tax under
17 Section 501(c) of the federal Internal Revenue Code, has submitted an application with
18 the Internal Revenue Service for recognition of an exemption under Section 501(c) of the
19 Internal Revenue Code, an entity registered as a nonprofit corporation under Chapter 3
20 of Title 14, the 'Georgia Nonprofit Corporation Code,' a charitable trust under Code
21 Section 53-12-170, or a religious organization as defined by Code Section 43-17-2.

22 (2) 'Person' means an individual, a corporation, a partnership, a limited liability
23 company, an association, a joint-stock company, a trust, or any unincorporated
24 organization.

25 (3) 'Personal information' means any list, record, register, registry, roll, roster, or other
26 compilation of data of any kind that directly or indirectly identifies a person as a member,
27 supporter, volunteer, or donor of financial or nonfinancial support to a nonprofit
28 organization.

29 (4) 'Public agency' means any department, division, board, bureau, commission, system,
30 or other agency of state government or any state authority; any local board, county,
31 municipal corporation, commission, council, school district, or political subdivision of
32 the state or any local authority; and any office, agency, or court provided for under
33 Title 15.

34 (b) Notwithstanding any other provision of law to the contrary, and subject to the
35 limitations in subsection (d) of this Code section, a public agency shall not:

36 (1) Require any individual or nonprofit organization to provide the public agency with
37 personal information or otherwise compel the release of personal information;

- 38 (2) Release, publicize, or otherwise publicly disclose personal information in possession
39 of the public agency; or
- 40 (3) Request or require a current or prospective contractor or grantee with the public
41 agency to provide a list of nonprofit organizations to which the current or prospective
42 contractor or grantee has provided financial or nonfinancial support.
- 43 (c) Subject to the limitations in subsection (d) of this Code section, personal information
44 shall not be subject to Article 4 of this chapter, relating to open records.
- 45 (d) Subsections (b) and (c) of this Code section shall not apply to:
- 46 (1) Any report or disclosure required by Chapter 5 of Title 21;
- 47 (2) Any lawful warrant for personal information issued by a court of competent
48 jurisdiction;
- 49 (3) A lawful request for discovery of personal information in litigation if both of the
50 following conditions are met:
- 51 (A) The requestor demonstrates a compelling need for the personal information by
52 clear and convincing evidence; and
- 53 (B) The requestor obtains a protective order barring disclosure of personal information
54 to any person not named in the litigation;
- 55 (4) Admission of personal information as evidence before a court of competent
56 jurisdiction. However, such evidence shall be made part of the record under seal, and no
57 court shall unseal such personal information absent a specific finding of good cause;
- 58 (5) A public body or agency from releasing personal information that was voluntarily
59 released by the person or voluntarily released by the nonprofit organization to the public;
- 60 (6) A collection of information disclosing the identity of any director, officer, resident
61 agent, or incorporator of a nonprofit organization in any report or disclosure required by
62 statute to be filed with the Secretary of State pursuant to Chapter 3 of Title 14, the
63 'Georgia Nonprofit Corporation Code'; or

64 (7) Disclosure of personal information derived from a donation to a nonprofit
65 organization that is affiliated with a public agency and required by statute, if the
66 individual has not previously requested anonymity from the nonprofit organization.

67 (e) Nothing in this Code section shall apply to a national securities association that is
68 registered pursuant to Section 15A of the Securities Exchange Act of 1934, 15 U.S.C.
69 Section 78o-3, as amended, or any information such national securities association provides
70 to the Secretary of State pursuant to the provisions of Chapter 5 of Title 10, the 'Georgia
71 Uniform Securities Act of 2008.'

72 (f) The provisions of this Code section may be enforced through civil actions for
73 declaratory and injunctive relief pursuant to Article I, Section II, Paragraph V of the
74 Georgia Constitution.

75 (g)(1) A person who suffers injury or damages as a result of an individual's malicious or
76 corrupt violation of this Code section may bring a civil action in superior court for
77 damages. A successful claimant shall be awarded the actual damages of any such
78 violation. Where it is proven that the violation was willful, the plaintiff shall be entitled
79 to recover treble damages and reasonable attorney's fees.

80 (2) Nothing in paragraph (1) of this subsection shall be construed to constitute a waiver
81 of the sovereign immunity of the state or any officer or employee thereof.

82 (h) An employee of a public agency who knowingly violates this Code section commits
83 the crime of improper collection or disclosure of personal information and is guilty of a
84 misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more
85 than \$1,000.00, or both."

86 **SECTION 3.**

87 Said chapter is further amended in subsection (a) of Code Section 50-18-72, relating to when
88 public disclosure not required of public records, by striking "or" at the end of paragraph (50),

89 by replacing the period at the end of paragraph (51) with "; or", and by adding a new
90 paragraph to read as follows:

91 "(52) Any information, including, but not limited to, data and records, prohibited from
92 disclosure pursuant to Code Section 50-18-160."

93 **SECTION 4.**

94 All laws and parts of laws in conflict with this Act are repealed.