

The Senate Committee on Judiciary offered the following substitute to SB 414:

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 for definitions; to provide a short title; to
6 provide for related matters; to 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 814 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, a charitable organization as defined by Code Section 43-17-2, or a
22 religious organization as defined by Code Section 43-17-2.

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

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

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

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

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

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

- 66 (7) Disclosure of personal information derived from a donation to a nonprofit
67 organization that is affiliated with a public agency and required by statute, if the
68 individual has not previously requested anonymity from the nonprofit organization;
- 69 (8) Any lawful request for personal information issued during an investigation pursuant
70 to Chapter 17 of Title 43, the 'Georgia Charitable Solicitations Act of 1988';
- 71 (9) A collection of information disclosing the identifying information of any executive
72 officers, directors, trustees, or executive personnel of a charitable organization in any
73 registration statement, report, or disclosure required by statute or rule pursuant to Chapter
74 17 of Title 43, the 'Georgia Charitable Solicitations Act of 1988';
- 75 (10) Collection of information on any return, form, report, statement, or disclosure
76 required for purposes of tax administration authorized by statute and pursuant to the
77 express statutory authority granted to the Department of Revenue, provided that such
78 information shall only be used in connection with the specific return, form, report,
79 statement, or disclosure to which the request relates;
- 80 (11) Disclosure of personal information to the Department of Banking and Finance to
81 conduct regulatory oversight of chartered and licensed entities pursuant to express
82 statutory authority under Chapter 1 of Title 7, the 'Financial Institutions Code of Georgia';
83 and
- 84 (12) Collection and use of personal information by the Department of Human Services
85 for purposes authorized in Article 1 of Chapter 2 of Title 49 and as permitted by statute,
86 rule, or regulation for purposes of administration of programs and services, regulatory
87 oversight, and ensuring compliance by prospective and approved contractors.
- 88 (e) Nothing in this Code section shall apply to a national securities association that is
89 registered pursuant to Section 15A of the Securities Exchange Act of 1934, 15 U.S.C.
90 Section 78o-3, as amended, or any information such national securities association provides
91 to the Secretary of State pursuant to the provisions of Chapter 5 of Title 10, the 'Georgia
92 Uniform Securities Act of 2008.'

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

96 (g)(1) A person who suffers injury or damages as a result of an individual's malicious or
97 corrupt violation of this Code section may bring a civil action in superior court for
98 damages. A successful claimant shall be awarded the actual damages of any such
99 violation not to exceed \$10,000.00. Where it is proven that the violation was willful, the
100 plaintiff shall be entitled to recover treble damages and reasonable attorney's fees.

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

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

107 **SECTION 3.**

108 Said chapter is further amended in subsection (a) of Code Section 50-18-72, relating to when
109 public disclosure not required of public records, by striking "or" at the end of paragraph (50),
110 by replacing the period at the end of paragraph (51) with "; or", and by adding a new
111 paragraph to read as follows:

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

114 **SECTION 4.**

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