

House Study Bill 223 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act restricting public agency disclosure of and access
2 to certain personal information related to tax-exempt
3 organizations, and providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 22.7, Code 2019, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 74. Personal information as defined in
4 section 22A.1.

5 Sec. 2. NEW SECTION. 22A.1 Definitions.

6 1. "*Personal information*" means any list, record,
7 register, registry, roll, roster, or other compilation of
8 data that directly or indirectly identifies a person as a
9 member, supporter, or volunteer of, or donor of financial
10 or nonfinancial support to, any entity which is exempt from
11 taxation under section 501(c) of the federal Internal Revenue
12 Code. "*Personal information*" does not include information
13 reportable to the secretary of state pursuant to section
14 504.1613.

15 2. "*Public agency*" means all of the following:

16 a. A state or municipal governmental unit, including but
17 not limited to the state of Iowa, a department, agency, office,
18 commission, board, or division of the state.

19 b. A political subdivision of the state, including but not
20 limited to a county, city, township, village, school district,
21 or community college merged area.

22 c. An agency, authority, council, board, or commission of a
23 political subdivision of the state.

24 d. A state or local court, tribunal, or other judicial or
25 quasi-judicial body.

26 Sec. 3. NEW SECTION. 22A.2 Personal information protected.

27 1. A public agency shall not do any of the following:

28 a. Require an entity which is exempt from taxation under
29 section 501(c) of the federal Internal Revenue Code to provide
30 the public agency with personal information.

31 b. Release, publicize, or otherwise disclose personal
32 information in the possession of the public agency without
33 the express, written permission of every member, supporter,
34 volunteer, and donor of the tax-exempt entity identified in the
35 information and the tax-exempt entity.

1 *c.* Request or require a current or prospective contractor
2 with the public agency to provide the public agency with a
3 list of entities exempt from taxation under section 501(c) of
4 the federal Internal Revenue Code to which the contractor has
5 provided financial or nonfinancial support.

6 2. This section does not prohibit any of the following:

7 *a.* Disclosure of personal information pursuant to a lawful
8 warrant issued by a court of competent jurisdiction.

9 *b.* Disclosure of personal information pursuant to a lawful
10 request for discovery if all of the following requirements are
11 met:

12 (1) The requestor demonstrates a compelling need for the
13 personal information by clear and convincing evidence.

14 (2) The requestor obtains a protective order barring
15 disclosure of personal information to any person not directly
16 involved in the litigation.

17 Sec. 4. NEW SECTION. **22A.3 Civil penalties.**

18 1. A person alleging a violation of this chapter, section
19 504.1604, subsection 5, or section 504.1605, subsection 5, may
20 bring a civil action for injunctive relief, damages, or both.
21 Damages may include either of the following:

22 *a.* Not less than two thousand five hundred dollars in
23 compensatory damages for injury and loss for each violation.

24 *b.* For an intentional violation, not more than three times
25 the amount described in paragraph "a" for each violation.

26 2. A court may, in its discretion, award all or a portion of
27 the costs of litigation, including reasonable attorney fees and
28 witness fees, to the complainant.

29 Sec. 5. NEW SECTION. **22A.4 Criminal penalties.**

30 A person who knowingly violates a provision of this
31 chapter, section 504.1604, subsection 5, or section 504.1605,
32 subsection 5, is guilty of a serious misdemeanor punishable by
33 imprisonment for not more than ninety days or a fine of not
34 more than one thousand dollars, or both.

35 Sec. 6. NEW SECTION. **22A.5 Campaign disclosure Act not**

1 **affected.**

2 This chapter shall not affect any provision of chapter 68A.
3 Sec. 7. Section 504.1604, Code 2019, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 5. If the court orders inspection of
6 records containing personal information as defined in section
7 22A.1, such inspection shall be made under seal from public
8 disclosure. A person who violates this subsection is subject
9 to civil penalties under section 22A.3. A person who knowingly
10 violates this subsection is subject to criminal penalties under
11 section 22A.4.

12 Sec. 8. Section 504.1605, Code 2019, is amended by adding
13 the following new subsection:

14 NEW SUBSECTION. 5. To obtain personal information
15 as defined in section 22A.1. A person who violates this
16 subsection is subject to civil penalties under section 22A.3.
17 A person who knowingly violates this subsection is subject to
18 criminal penalties under section 22A.4.

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with
21 the explanation's substance by the members of the general assembly.

22 This bill relates to certain personal information in
23 the possession of certain tax-exempt and governmental
24 entities. The bill prohibits a public agency, defined in
25 the bill to include any governmental entity of Iowa or a
26 political subdivision, from seeking the disclosure of personal
27 information from an organization exempt from taxation under
28 section 501(c) of the federal Internal Revenue Code that
29 would directly or indirectly reveal the identity of a member,
30 supporter, volunteer, or donor of the organization, or from
31 requesting from a current or potential contractor a list of
32 tax-exempt organizations that the contractor has supported.
33 The bill also prohibits a public agency from publishing any
34 such information that the public agency possesses.

35 The bill allows the disclosure of personal information

1 pursuant to a lawful warrant or discovery request. However,
2 the bill requires the proponent of such a discovery request
3 to show a compelling need for the information by clear and
4 convincing evidence and to obtain a protective order barring
5 unnecessary disclosure of the information.

6 The bill amends the revised Iowa nonprofit corporation Act
7 to require any inspection of corporate records containing
8 personal information to be made under seal from public
9 disclosure. The bill also prohibits corporate records from
10 being used to obtain personal information.

11 The bill exempts personal information from the definition of
12 public records under Code chapter 22.

13 A person who violates a provision of the bill is subject to
14 a civil penalty of not less than \$2,500 per violation, and not
15 more than three times that amount for an intentional violation.
16 The bill allows a court to award to a prevailing plaintiff an
17 amount equal to all or a portion of the costs of litigation,
18 including attorney and witness fees.

19 A person who knowingly violates a provision of the bill is
20 guilty of a serious misdemeanor punishable by imprisonment for
21 not more than 90 days, a fine of \$1,000, or both.

22 The bill does not affect any provision of Code chapter 68A,
23 which relates to campaign finance.