

House File 309 - Introduced

HOUSE FILE 309
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 28)

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 2021, 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 or information provided to the attorney general or
15 state auditor pursuant to chapter 504 or 537, or section
16 714.16.

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

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

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

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

26 d. A state or local court, tribunal, or other judicial or
27 quasi-judicial body.

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

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

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

33 b. Release, publicize, or otherwise disclose personal
34 information in the possession of the public agency without
35 the express, written permission of every member, supporter,

1 volunteer, and donor of the tax-exempt entity identified in the
2 information and the tax-exempt entity.

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

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

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

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

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

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

19 *c.* Disclosure of personal information pursuant to an
20 agreement between a public agency and an entity which is exempt
21 from taxation under section 501(c) of the federal Internal
22 Revenue Code.

23 *d.* Disclosure of personal information included in judicial
24 proceedings that are public pursuant to section 602.1601.

25 However, upon petition of an entity which is exempt from
26 taxation under section 501(c) of the federal Internal Revenue
27 Code, the court shall seal a case file that is otherwise
28 public pursuant to section 602.1601 to protect the personal
29 information contained in that file.

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

31 1. A person alleging a violation of this chapter, section
32 504.1604, subsection 5, or section 504.1605, subsection 5, may
33 bring a civil action for injunctive relief, damages, or both.
34 Damages may include either of the following:

35 *a.* Not less than two thousand five hundred dollars in

1 the possession of certain tax-exempt and governmental
2 entities. The bill prohibits a public agency, defined in
3 the bill to include any governmental entity of Iowa or a
4 political subdivision, from seeking the disclosure of personal
5 information from an organization exempt from taxation under
6 section 501(c) of the federal Internal Revenue Code that
7 would directly or indirectly reveal the identity of a member,
8 supporter, volunteer, or donor of the organization, or from
9 requesting from a current or potential contractor a list of
10 tax-exempt organizations that the contractor has supported.
11 The bill also prohibits a public agency from publishing any
12 such information that the public agency possesses.

13 The bill allows the disclosure of personal information
14 pursuant to a lawful warrant or discovery request. However,
15 the bill requires the proponent of such a discovery request
16 to show a compelling need for the information by clear and
17 convincing evidence and to obtain a protective order barring
18 unnecessary disclosure of the information.

19 The bill allows disclosure of personal information pursuant
20 to an agreement between an organization and a public agency.
21 The bill exempts from the definition of "personal information"
22 information that must be reported to the secretary of state,
23 attorney general, or state auditor pursuant to certain
24 specified provisions of law.

25 The bill allows disclosure of personal information included
26 in public judicial proceedings, however, upon petition of an
27 entity which is exempt from taxation under section 501(c) of
28 the federal Internal Revenue Code, the court shall seal the
29 case file.

30 The bill amends the revised Iowa nonprofit corporation Act
31 to require any inspection of corporate records containing
32 personal information to be made under seal from public
33 disclosure. The bill also prohibits corporate records from
34 being used to obtain personal information.

35 The bill exempts personal information for purposes of the

1 bill from the definition of public records under Code chapter
2 22.

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

9 A person who knowingly violates a provision of the bill is
10 guilty of a serious misdemeanor punishable by confinement for
11 not more than 90 days or a fine of not more than \$1,000, or
12 both.

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