

Senate Study Bill 1036 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

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
19 not limited to the state of Iowa, 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 Sec. 4. NEW SECTION. 22A.3 Civil penalties.

24 1. A person alleging a violation of this chapter, section
25 504.1604, subsection 5, or section 504.1605, subsection 5, may
26 bring a civil action for injunctive relief, damages, or both.
27 Damages may include either of the following:

28 a. Not less than two thousand five hundred dollars in
29 compensatory damages for injury and loss for each violation.

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

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

35 Sec. 5. NEW SECTION. 22A.4 Criminal penalties.

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

6 Sec. 6. NEW SECTION. 22A.5 Campaign disclosure Act not
7 affected.

8 This chapter shall not affect any provision of chapter 68A.

9 Sec. 7. Section 504.1604, Code 2021, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 5. If the court orders inspection of
12 records containing personal information as defined in section
13 22A.1, such inspection shall be made under seal from public
14 disclosure. A person who violates this subsection is subject
15 to civil penalties under section 22A.3. A person who knowingly
16 violates this subsection is subject to criminal penalties under
17 section 22A.4.

18 Sec. 8. Section 504.1605, Code 2021, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 5. To obtain personal information
21 as defined in section 22A.1. A person who violates this
22 subsection is subject to civil penalties under section 22A.3.
23 A person who knowingly violates this subsection is subject to
24 criminal penalties under section 22A.4.

25 EXPLANATION

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

28 This bill relates to certain personal information in
29 the possession of certain tax-exempt and governmental
30 entities. The bill prohibits a public agency, defined in
31 the bill to include any governmental entity of Iowa or a
32 political subdivision, from seeking the disclosure of personal
33 information from an organization exempt from taxation under
34 section 501(c) of the federal Internal Revenue Code that
35 would directly or indirectly reveal the identity of a member,

1 supporter, volunteer, or donor of the organization, or from
2 requesting from a current or potential contractor a list of
3 tax-exempt organizations that the contractor has supported.
4 The bill also prohibits a public agency from publishing any
5 such information that the public agency possesses.

6 The bill allows the disclosure of personal information
7 pursuant to a lawful warrant or discovery request. However,
8 the bill requires the proponent of such a discovery request
9 to show a compelling need for the information by clear and
10 convincing evidence and to obtain a protective order barring
11 unnecessary disclosure of the information.

12 The bill also allows disclosure of personal information
13 pursuant to an agreement between an organization and a public
14 agency. The bill exempts from the definition of "personal
15 information" information that must be reported to the secretary
16 of state, attorney general, or state auditor pursuant to
17 certain specified provisions of law.

18 The bill amends the revised Iowa nonprofit corporation Act
19 to require any inspection of corporate records containing
20 personal information to be made under seal from public
21 disclosure. The bill also prohibits corporate records from
22 being used to obtain personal information.

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

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

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

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