

# SENATE BILL No. 303

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 23-17-32.

**Synopsis:** Privacy protections for nonprofit organizations. Defines "personal information", with respect to a nonprofit organization, as a compilation of data that directly or indirectly identifies a person as a member of, supporter of, volunteer for, or donor to, the nonprofit organization. Prohibits a public agency (defined in the bill as a state agency or a political subdivision) from doing the following: (1) Requiring a person or nonprofit organization to provide personal information to the public agency, or otherwise compelling the release of personal information. (2) Releasing, publicizing, or publicly disclosing personal information in its possession. (3) Requesting or requiring a current or prospective contractor or grantee to provide a list of nonprofit organizations to which the current or prospective contractor or grantee has provided financial or nonfinancial support. Provides exceptions to these prohibitions with respect to disclosures made: (1) in compliance with specified laws; or (2) under certain circumstances in the context of litigation. Provides that personal information is considered confidential and is not subject to disclosure under Indiana's access to public records act (act). Provides that a person alleging a violation of the bill's provisions may bring a civil action for injunctive relief, specified damages, or both. Provides that: (1) a public employee; (2) a public official; or (3) an employee or officer of a contractor or subcontractor for a public agency; who violates the bill's provisions is subject to the penalties and discipline that apply with respect to violations of the act.

**Effective:** July 1, 2023.

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January 12, 2023, read first time and referred to Committee on Judiciary.

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First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

# SENATE BILL No. 303

A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 23-17-32 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2023]:

4 **Chapter 32. Nonprofit Organizations: Privacy Protections for**  
5 **Members, Volunteers, and Donors**

6 **Sec. 1. This chapter does not apply to:**

- 7 (1) a national securities association that is registered:
- 8 (A) under Section 15(a) of the Securities Exchange Act of
- 9 1934 (15 U.S.C. 78o-3); and
- 10 (B) in accordance with any regulations adopted under the
- 11 Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); or

- 12 (2) any information a national securities association described
- 13 in subdivision (1) provides to the secretary of state under
- 14 IC 23-19 or under rules adopted or orders issued under
- 15 IC 23-19.

16 **Sec. 2. As used in this chapter, "nonprofit organization" means**  
17 **either of the following:**



1 (1) A domestic corporation (as defined in IC 23-17-2-11).

2 (2) A foreign corporation (as defined in IC 23-17-2-13).

3 Sec. 3. As used in this chapter, "person" has the meaning set  
4 forth in IC 23-17-2-20.

5 Sec. 4. As used in this chapter, "personal information" means  
6 any compilation of data (including any list, record, registry, roll, or  
7 roster) that directly or indirectly identifies a person as a:

8 (1) member of;

9 (2) supporter of;

10 (3) volunteer for; or

11 (4) donor of financial or nonfinancial support to;

12 a nonprofit organization.

13 Sec. 5. As used in this chapter, "public agency" means a:

14 (1) state agency (as defined in IC 1-1-15-3); or

15 (2) political subdivision (as defined in IC 36-1-2-13).

16 Sec. 6. (a) Except as provided in subsection (b), a public agency  
17 shall not do any of the following:

18 (1) Either:

19 (A) require any person or nonprofit organization to  
20 provide the public agency with personal information; or

21 (B) otherwise compel the release of personal information.

22 (2) Release, publicize, or otherwise publicly disclose personal  
23 information in the possession of the public agency.

24 (3) Request or require a current or prospective:

25 (A) contractor for; or

26 (B) grantee of;

27 the public agency to provide a list of nonprofit organizations  
28 to which the current or prospective contractor or grantee has  
29 provided financial or nonfinancial support.

30 (b) Subsection (a) does not apply with respect to any of the  
31 following:

32 (1) Any report or disclosure required under state:

33 (A) campaign finance; or

34 (B) lobbying disclosure;

35 laws.

36 (2) A lawful order or warrant, issued by a court of competent  
37 jurisdiction, for the provision, disclosure, or release of  
38 personal information.

39 (3) A lawful request for discovery of personal information in  
40 the context of litigation if the following conditions are met:

41 (A) The requesting party or person demonstrates, by clear  
42 and convincing evidence, as determined by the court, a



- 1                    **compelling need for the personal information.**  
 2                    **(B) The requesting party or person obtains a protective**  
 3                    **order, issued by the court, barring disclosure of the**  
 4                    **personal information to any person not named as a party**  
 5                    **in the litigation.**  
 6                    **(4) Admission of personal information as relevant evidence**  
 7                    **before a court of competent jurisdiction. However, a court**  
 8                    **may not publicly disclose or release personal information**  
 9                    **without a specific finding of good cause.**  
 10                   **(5) Release by a public agency of personal information that**  
 11                   **was voluntarily released by:**  
 12                       **(A) the person to whom the personal information pertains;**  
 13                       **or**  
 14                       **(B) the nonprofit organization with which the personal**  
 15                       **information is associated;**  
 16                   **to the public.**  
 17                   **(6) A collection of information that:**  
 18                       **(A) includes the identity of any director, officer, resident**  
 19                       **agent, or incorporator of a nonprofit organization; and**  
 20                       **(B) is part of any report or disclosure required to be filed**  
 21                       **with the secretary of state under this article or any other**  
 22                       **statute.**  
 23                   **However, information that directly identifies a person as a**  
 24                   **donor of financial or nonfinancial support to a nonprofit**  
 25                   **organization shall not be disclosed by the secretary of state.**  
 26                   **(7) Disclosure of personal information that is derived from a**  
 27                   **financial or nonfinancial donation to a nonprofit organization**  
 28                   **that is affiliated with a public agency if:**  
 29                       **(A) the disclosure is required by statute; and**  
 30                       **(B) the person to whom the personal information pertains**  
 31                       **has not previously made a request for anonymity to the**  
 32                       **nonprofit organization.**  
 33                   **(c) Personal information is considered confidential and is not**  
 34                   **subject to disclosure under IC 5-14-3.**  
 35                   **Sec. 7. (a) A person alleging a violation of this chapter may**  
 36                   **bring a civil action in a court of competent jurisdiction for either**  
 37                   **or both the following:**  
 38                       **(1) Injunctive relief.**  
 39                       **(2) Damages as follows:**  
 40                           **(A) a sum of money:**  
 41                               **(i) to be determined by the court; but**  
 42                               **(ii) not less than two thousand five hundred dollars**



1           **(\$2,500);**  
2           **per violation to compensate the person for injury or loss**  
3           **caused by the violation; or**  
4           **(B) if the court finds that the violation was intentional, an**  
5           **increased sum of money in an amount not to exceed three**  
6           **(3) times the amount that would otherwise be awarded**  
7           **under clause (A).**  
8           **(b) A court, in rendering a judgment in an action brought under**  
9           **this section, may award all or part of the costs of the action,**  
10           **including reasonable attorney's fees and witness fees, to the**  
11           **complainant in the action if the court determines that the award is**  
12           **appropriate.**  
13           **Sec. 8. Any:**  
14           **(1) public employee;**  
15           **(2) public official; or**  
16           **(3) employee or officer of a:**  
17           **(A) contractor; or**  
18           **(B) subcontractor;**  
19           **of a public agency;**  
20           **who violates this chapter is subject to penalties and discipline set**  
21           **forth in IC 5-14-3-10.**

