

Senate Bill 414

By: Senators Kennedy of the 18th, Gooch of the 51st, Robertson of the 29th, Anavitarte of the 31st, Albers of the 56th and others

AS PASSED

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. Such term shall not include
23 any public agency.

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

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

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

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

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

65 statute to be filed with the Secretary of State pursuant to Chapter 3 of Title 14, the
66 'Georgia Nonprofit Corporation Code';

67 (7) Disclosure of personal information derived from a donation to a nonprofit
68 organization that is affiliated with a public agency and required by statute, if the
69 individual has not previously requested anonymity from the nonprofit organization;

70 (8) Any lawful request for personal information issued during an investigation pursuant
71 to Chapter 17 of Title 43, the 'Georgia Charitable Solicitations Act of 1988';

72 (9) A collection of information disclosing the identifying information of any executive
73 officers, directors, trustees, or executive personnel of a charitable organization in any
74 registration statement, report, or disclosure required by statute or rule pursuant to Chapter
75 17 of Title 43, the 'Georgia Charitable Solicitations Act of 1988';

76 (10) Collection of information on any return, form, report, statement, or disclosure
77 required for purposes of tax administration authorized by statute and pursuant to the
78 express statutory authority granted to the Department of Revenue, provided that such
79 information shall only be used in connection with the specific return, form, report,
80 statement, or disclosure to which the request relates;

81 (11) Disclosure of personal information to the Department of Banking and Finance to
82 conduct regulatory oversight of chartered and licensed entities pursuant to express
83 statutory authority under Chapter 1 of Title 7, the 'Financial Institutions Code of Georgia';
84 and

85 (12) Collection and use of personal information as permitted by statute, rule, or
86 regulation for purposes of administration of programs and services, regulatory oversight,
87 and ensuring compliance by prospective and approved contractors:

88 (A) By the Department of Human Services for purposes authorized in Article 1 of
89 Chapter 2 of Title 49;

90 (B) By the Department of Behavioral Health and Developmental Disabilities for
91 purposes authorized in Title 37;

92 (C) By the Department of Community Health for purposes authorized in Chapter 5 of
93 Title 26, Title 31, Article 7 of Chapter 3 of Title 37, Article 1 of Chapter 18 of Title 45,
94 Article 7 of Chapter 4 of Title 49, or Article 7 of Chapter 6 of Title 49; and

95 (D) By the Department of Juvenile Justice for purposes authorized in Chapter 4A of
96 Title 49.

97 (e) Nothing in this Code section shall apply to a national securities association that is
98 registered pursuant to Section 15A of the Securities Exchange Act of 1934, 15 U.S.C.
99 Section 78o-3, as amended, or any information such national securities association provides
100 to the Secretary of State pursuant to the provisions of Chapter 5 of Title 10, the 'Georgia
101 Uniform Securities Act of 2008.'

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

105 (g)(1) A person who suffers injury or damages as a result of an individual's malicious or
106 corrupt violation of this Code section may bring a civil action in superior court for
107 damages. A successful claimant shall be awarded the actual damages of any such
108 violation. Where it is proven that the violation was willful, the plaintiff shall be entitled
109 to recover treble damages and reasonable attorney's fees.

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

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

117

SECTION 3.

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

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

124

SECTION 4.

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