

CHAPTER 127

(SB 62)

AN ACT relating to privacy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

- (1) *"Personal information" means any list, record, registry, roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of financial or nonfinancial support to any nonprofit organization;*
- (2) *"Public agency" has the same meaning as in KRS 61.870(1);*
- (3) *"Person" means an individual or entity; and*
- (4) *"Nonprofit organization" means an organization that:*
 - (a) *Is exempt from federal income tax under Section 501(c) of the Internal Revenue Code;*
 - (b) *Has submitted an application with the Internal Revenue Service for recognition of an exemption under Section 501(c) of the Internal Revenue Code; or*
 - (c) *Is a nonprofit corporation incorporated under KRS Chapter 273, an unincorporated nonprofit association under KRS Chapter 273A, or a domestic nonprofit limited liability company under KRS Chapter 275.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any law to the contrary, and subject to the exemptions described in Section 3 of this Act, a public agency shall not:*
 - (a) *Require any individual or nonprofit organization to provide the public agency with personal information or otherwise compel the release of personal information;*
 - (b) *Release, publicize, or otherwise publicly disclose personal information in its possession; or*
 - (c) *Request or require a current or prospective contractor or grantee with the public agency to provide a list of nonprofit organizations to which the current or prospective contractor or grantee has provided financial or nonfinancial support.*
- (2) *Personal information shall be exempt from disclosure under the Kentucky Open Records Act, KRS 61.870 to 61.884.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

- (1) *Sections 1 to 5 of this Act shall not preclude:*
 - (a) *Any report related to campaign financing required by:*
 1. *KRS 121.140;*
 2. *KRS 121.150;*
 3. *KRS 121.160;*
 4. *KRS 121.170;*
 5. *KRS 121.172;*
 6. *KRS 121.180;*
 7. *KRS 121.210; or*
 8. *KRS 121.230;*

- (b) *A response to any lawful warrant for personal information issued by a court of competent jurisdiction;*
 - (c) *A response to a lawful request for discovery of personal information in litigation if the request is reasonably calculated to lead to the discovery of admissible evidence. A party from which the personal information is requested pursuant to this paragraph may seek a protective order from the court barring the requesting party from disclosure of personal information to any person named in the litigation;*
 - (d) *Admission of personal information as relevant evidence before a court of competent jurisdiction. However, no court shall publicly reveal personal information absent a finding of good cause;*
 - (e) *A public agency from releasing personal information that was voluntarily released by the person or the nonprofit organization to the public;*
 - (f) *Collection of information disclosing the identity of any director, officer, registered agent, or incorporator of a nonprofit organization in any report or disclosure required by statute to be filed with the Secretary of State, except that information that directly identifies a person as a donor of financial or in-kind support to a nonprofit organization shall not be collected or disclosed;*
 - (g) *Disclosure of personal information derived from a donation to a nonprofit organization that is affiliated with a public agency and required by statute, including the voluntary submission of personal information from a nonprofit organization to a public agency for verification purposes as a condition of receiving matching grant funding, if the person has not previously requested anonymity from the nonprofit organization;*
 - (h) *Collection of information by the Attorney General via federal Form 990, as required by KRS 367.657, except that information that directly identifies a person as a donor of financial or in-kind support to a nonprofit organization via federal Form 990, Schedule B, or its successor form, shall not be collected or disclosed;*
 - (i) *Collection of information pursuant to a request by the Attorney General for information required for an audit, examination, review, or investigation pursuant to KRS 367.240 or 367.250, provided that such information shall only be used in connection with the specific audit, examination, review, or investigation to which the request relates and for any related proceedings, provided further that any information so collected shall otherwise remain subject to the provisions of Sections 1 to 5 of this Act;*
 - (j) *Any disclosures, reports, or investigations pursuant to KRS 6.601 to 6.849 or KRS Chapter 11A, except that such information shall only be used in connection with the specific disclosures, reports, or investigations and for any related proceedings; or*
 - (k) *Audit, attestation, examination, investigation, or other review work authorized under KRS Chapter 43 or pursuant to the express statutory authority granted to the Office of the Auditor of Public Accounts or performed by a certified public accountant either under contract with the Auditor of Public Accounts or pursuant to an engagement declined by the Auditor of Public Accounts, provided that such information shall only be used in connection with the specific audit, attestation, examination, investigation, or other review work to which the request relates.*
- (2) *Sections 1 to 5 of this Act shall not be construed to apply to a:*
- (a) *Nonprofit organization acting as a community action agency pursuant to KRS 273.410 to 273.453; or*
 - (b) *National securities association that is registered pursuant to Section 15A of the Securities Exchange Act of 1934, 15 U.S.C. sec. 78o-3, as amended, or regulations promulgated thereunder, or any information the national securities association provides to the Department of Financial Institutions pursuant to KRS Chapter 292 and the administrative regulations promulgated thereunder.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

- (1) *A person alleging a violation of Sections 1 to 5 of this Act may bring a civil action for appropriate injunctive relief, damages, or both. Damages awarded under this section may include one (1) of the following, as appropriate:*
 - (a) *A sum of money that reflects the actual damages caused by each violation of Sections 1 to 5 of this Act;*

- (b) A sum of money not less than two thousand five hundred dollars (\$2,500) to compensate for injury or loss caused by each violation of Sections 1 to 5 of this Act; or*
- (c) For an intentional violation, a sum of money not to exceed three (3) times the sum described in paragraph (b) of this subsection.*
- (2) A court, in rendering a judgment in an action brought under Sections 1 to 5 of this Act, may award all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, to the complainant in the action if the court determines that the award is appropriate.*
- (3) A person who knowingly violates Sections 1 to 5 of this Act is guilty of a Class B misdemeanor under KRS 532.020(3), and may be subject to a fine of not more than one thousand dollars (\$1,000).*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

If any provision of Sections 1 to 5 of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of Sections 1 to 5 of this Act that can be given effect without the invalid provision or application, and to this end the provisions of Sections 1 to 5 of this Act are severable.

➔Section 6. This Act may be cited as the Personal Privacy Protection Act.

Became law without Governor's signature March 29, 2023.