



2021 South Dakota Legislature  
**Senate Bill 103**  
**ENROLLED**

AN ACT

**ENTITLED An Act to provide for the confidentiality of personal information of persons affiliated with nonprofit corporations.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

**Section 1.** That a NEW SECTION be added:

**47-24-21. Personal affiliation information--Definitions.**

Terms used in §§ 47-24-21 to 47-24-26, inclusive, mean:

- (1) "Personal affiliation information," any list, record, register, registry, roll, roster, or other compilation of data of any kind that directly or indirectly identifies a natural person as a member, supporter, volunteer, or donor of financial or nonfinancial support to any nonprofit corporation; and
- (2) "Public agency," any state or local governmental unit in this state, including any department, agency, office, commission, board, division, county, municipality, township, school district, court, or other judicial or quasi-judicial body.

**Section 2.** That a NEW SECTION be added:

**47-24-22. Personal affiliation information--Right to privacy--Public agencies--Prohibitions.**

Any natural person who supports a nonprofit corporation has a right to personal privacy and confidentiality regarding the release of personal affiliation information by a public agency. A public agency may not:

- (1) Require any natural person or nonprofit corporation to provide the public agency with personal affiliation information or otherwise compel the release of personal affiliation information;
- (2) Release, publicize, or otherwise publicly disclose personal affiliation information in the public agency's possession; or

- (3) Request or require a current or prospective contractor or grantee with the public agency to provide the public agency with a list of nonprofit corporations to which it has provided financial or nonfinancial support.

**Section 3.** That a NEW SECTION be added:

**47-24-23. Personal affiliation information--Privacy violation--Civil action.**

A natural person alleging a violation of § 47-24-22 may bring a civil action for appropriate injunctive relief, actual damages, or both.

In an action brought under this section, a court 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.

**Section 4.** That a NEW SECTION be added:

**47-24-24. Personal affiliation information--Exemptions.**

The provisions of §§ 47-24-21 to 47-24-23, inclusive, do not apply to:

- (1) Any report or disclosure required by state law to be filed with the secretary of state;
- (2) Any official record or minutes required by law to be maintained by a public agency if the personal affiliation information was voluntarily disclosed by the donor;
- (3) Any lawful warrant for personal affiliation information issued by a court of competent jurisdiction;
- (4) A lawful request for discovery of personal affiliation information in litigation if the following conditions are met:
  - (a) The requestor demonstrates a compelling need for the personal affiliation information by clear and convincing evidence; and
  - (b) The requestor obtains a protective order barring disclosure of personal affiliation information to any person not named in the litigation;
- (5) Admission of personal affiliation information as relevant evidence before a court of competent jurisdiction. However, no court filing may publicly reveal personal affiliation information absent a specific finding of good cause;
- (6) A review of personal affiliation information necessary for a sales or use tax audit of a nonprofit corporation by the Department of Revenue; or
- (7) A review of personal affiliation information necessary for purposes of an audit, examination, or investigation of a nonprofit corporation pursuant to chapter 4-11.

**Section 5.** That a NEW SECTION be added:

**47-24-25. Personal affiliation information--Public benefit.**

Personal affiliation information derived from a donation to a nonprofit corporation that is affiliated with a public agency may be disclosed if the donor has not previously requested anonymity from the nonprofit corporation.

**Section 6.** That a NEW SECTION be added:

**47-24-26. Personal affiliation information--Fraud investigation.**

The provisions of § 47-24-22 do not apply to any information required for, or obtained in the course of, a state fraud investigation or an enforcement action by the state. Any information obtained shall be confidential, and its disclosure is restricted as provided by law.

An Act to provide for the confidentiality of personal information of persons affiliated with nonprofit corporations.

\_\_\_\_\_  
I certify that the attached Act originated in  
the:  
Senate as Bill No. 103

\_\_\_\_\_  
Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_,  
2021 at \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of the Senate

By \_\_\_\_\_  
for the Governor

\_\_\_\_\_  
President of the Senate

The attached Act is hereby  
approved this \_\_\_\_ day of  
\_\_\_\_\_, A.D., 2021

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

\_\_\_\_\_  
Speaker of the House

Attest:

Filed \_\_\_\_\_, 2021  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
Secretary of State

Senate Bill No. 103  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

By \_\_\_\_\_  
Asst. Secretary of State