

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1678
By: Campbell
State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of S.B. 1678 is to protect the personal information of individuals who belong to, volunteer for, and support the charities of their choice. The freedom to associate with others for the purpose of advancing ideas is a fundamental right. This right is violated when a person's privacy is invaded merely due to the support of a group advocating a particular point of view.

The right for charities to keep their donor lists private has been settled ever since members of the NAACP sued Alabama over examples of "intimidation" that their members faced during the civil rights era (*NAACP v. Alabama* (1958)). Currently, Americans for Prosperity (an organization that counts many Texans as donors) is suing the State of California in the Supreme Court to protect the right not to hand them their donor list. Across the political spectrum, people have endured, and continue to endure, intimidation and potential violence all because of their membership in, or support of, a particular cause.

S.B. 1678 protects against this scenario by prohibiting any state or local government actor from requesting information relating to a person's membership of, or donations to, a charitable organization organized under Sections 501(c)(3) and 501(c)(6) of federal tax law, as well as allowing a person to bring a civil action against any state or local governmental actor that requests or releases that person's information relating to their donations to, or membership of, charitable groups organized under Sections 501(c)(3) and 501(c)(6) of federal tax law. It also exposes such state or local governmental actors to criminal penalties for such behavior, classifying the release of donor information as a Class B misdemeanor.

S.B. 1678 does not apply in any way to individuals or groups who engage in political activity. It does not apply to political action committees. It also does not apply to individuals giving to political candidates, campaign expenditures, or groups that exist to influence elections. This Act would not change existing Texas requirements regarding nonprofit reporting, accountability, and transparency.

(Original Author's/ Sponsor's Statement of Intent)

C.S.S.B. 1678 amends current law relating to the prohibited release by a public agency of information regarding the members, supporters, or volunteers of or donors to certain nonprofit organizations and creates a criminal offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle Z, Title 10, Government Code, by adding Chapter 3001, as follows:

CHAPTER 3001. GOVERNMENTAL ACTION RELATED TO DONOR INFORMATION

Sec. 3001.001. DEFINITIONS. Defines "donor information" and "public agency."

Sec. 3001.002. PROTECTED DONOR INFORMATION. (a) Prohibits a public agency or an officer or employee of a public agency, notwithstanding any other law except Section 3001.003, from:

(1) requiring an individual to provide donor information to the agency or otherwise compelling the release of donor information;

(2) requiring an entity exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c), Internal Revenue Code of 1986, to provide donor information to the agency or otherwise compelling the release of donor information;

(3) releasing, publicizing, or otherwise publicly disclosing donor information in the agency's possession; or

(4) requesting or requiring a current or prospective contractor with or grantee of the agency to provide to the agency a list of organizations exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, by being listed as exempt organizations under Section 501(c), Internal Revenue Code of 1986, to which the contractor or grantee has provided financial or nonfinancial support.

(b) Provides that donor information is excepted from release under Chapter 552 (Public Information).

Sec. 3001.003. EXCEPTIONS. Provides that Section 3001.002 does not apply to:

(1) donor information included in a report required to be filed under state law by a candidate for public office, a public official, or a person required to register as a lobbyist under Chapter 305 (Registration of Lobbyists);

(2) a warrant for donor information issued by a court of competent jurisdiction in this state;

(3) a request for discovery of donor information in an action brought in a court of competent jurisdiction in this state if the requestor:

(A) demonstrates by clear and convincing evidence a compelling need for the information; and

(B) obtains a protective order barring release of the information to any person not directly involved in the action;

(4) donor information admitted as relevant evidence in an action before a court of competent jurisdiction provided the court does not publicly release the information unless the court specifically finds good cause for the release; and

(5) any donor information contained in a document or instrument recorded or maintained by the secretary of state.

Sec. 3001.004. CIVIL ACTION. Authorizes a person alleging a violation of Section 3001.002 to bring a civil action to obtain appropriate:

(1) injunctive relief;

(2) damages incurred by the person in an amount equal to:

(A) not less than \$2,500 as compensatory damages for injury or loss caused by each violation; or

(B) a sum not to exceed three times the amount described in Paragraph (A) for each intentional violation; and

(3) court costs, including reasonable attorney's and witness fees.

Sec. 3001.005. IMMUNITY WAIVED. Authorizes a person who alleges a violation of Section 3001.002 to sue the public agency for the relief provided under Section 3001.004. Provides that sovereign or governmental immunity, as applicable, is waived and abolished to the extent of liability for that relief.

Sec. 3001.006. CRIMINAL PENALTY. Provides that a person who violates Section 3001.002 commits a Class B misdemeanor offense.

SECTION 2. Makes application of Chapter 3001, Government Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2021.