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## DIGEST

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HB 303 Original

2020 Regular Session

Wright

**Abstract:** Prohibits public bodies from requiring or disclosing defined personal information regarding 501(c) organizations and provides exceptions. Also establishes criminal penalties and civil damages and authorizes reasonable attorney fees and costs of litigation for violations.

Present law (R.S. 44:1 et seq.—Public Records Law) provides that all records regardless of physical form or characteristics, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of the state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of the state are "public records". Present law establishes a framework for the ready availability of public records to requesting persons and specifically provides that it is the duty of the custodian of the public records of a public entity or agency to provide copies to persons so requesting. Provides for certain exceptions, exemptions, and limitations. Present law provides relative to the award reasonable attorney fees and other costs of litigation in a suit regarding access to a record and provides that an award for attorney fees shall not exceed the amounts approved by the attorney general for the employment of outside counsel. Further authorizes the court to award the requester civil penalties not to exceed \$100 per day, exclusive of Saturdays, Sundays, and legal public holidays, if the custodian unreasonably or arbitrarily failed to respond to the request for a record. Present law defines "public body" for its purposes.

Proposed law defines "nonprofit" as a nonprofit organization which is tax exempt pursuant to Section 501(c) of the Internal Revenue Code; "person" as an individual or legal entity; and "personal information" as any list, record, or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, or volunteer of or a donor of financial or nonfinancial support to a nonprofit.

Proposed law prohibits, notwithstanding any provision of present law, a public body from:

- (1) Requiring any person to provide the public body with personal information or otherwise compel the release of personal information.
- (2) Publicly disclosing personal information in its custody or control.

- (3) Requesting or requiring any current or prospective contractor or grantee to provide a list of nonprofits to which it has provided financial or nonfinancial support.

Proposed law explicitly provides that personal information shall be confidential and further prohibits a public body from disclosing it pursuant to the Public Records Law.

Proposed law provides exceptions for reports and disclosures required by present law (Code of Governmental Ethics, Campaign Finance Disclosure Law, and provisions relative to lobbyist disclosure). Provides additional exceptions for lawful warrants; lawful requests for discovery if there is clear and convincing evidence of a compelling need and a protective order barring disclosure to any person not directly involved in the litigation; and admission as relevant evidence in court, provided that no court shall publicly cause such disclosure absent a specific finding of good cause.

Proposed law provides for civil actions for appropriate injunctive relief, damages, or both, in the district court for the parish in which the office of the public body is located. Provides that damages may include a civil penalty of not less than \$2,500 to compensate loss caused by each violation, or for an intentional violation, a civil penalty of not more than \$7,500. Additionally authorizes the court to award the person reasonable attorney fees and other costs of litigation.

Proposed law provides that it is a misdemeanor for any person or official or employee of a public body to knowingly violate proposed law and that such crime shall be punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000, or both.

(Adds R.S. 44:9)