

CHAPTER 336
SB 302-FN - FINAL VERSION

02/24/2022 0792s
5May2022... 1443h
05/26/2022 2036CofC
05/26/2022 2124EBA

2022 SESSION

22-3010
07/10

SENATE BILL ***302-FN***

AN ACT establishing the personal privacy protection act.

SPONSORS: Sen. Birdsell, Dist 19; Sen. Gannon, Dist 23; Sen. Daniels, Dist 11; Sen. Ward, Dist 8;
Sen. French, Dist 7; Sen. Giuda, Dist 2; Rep. Lynn, Rock. 7; Rep. DiLorenzo, Rock.
17; Rep. McLean, Hills. 44

COMMITTEE: Judiciary

ANALYSIS

This bill prohibits public agencies and public bodies from releasing any list, record, register, 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 any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code except in specific circumstances, as well as penalties for the unlawful release of such information.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT establishing the personal privacy protection act.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 336:1 New Chapter; Personal Privacy Protection Act. Amend RSA by inserting after chapter 91-B the
2 following new chapter:

3 CHAPTER 91-C

4 PERSONAL PRIVACY PROTECTION ACT

5 91-C:1 Public Bodies Prohibited Disclosures.

6 I. Public agencies and public bodies shall not disclose or release any list, record, register,
7 registry, roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as
8 a member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt from
9 federal income tax under section 501(c) of the Internal Revenue Code.

10 II. Notwithstanding any law and subject to RSA 91-C:2, a public agency or public body shall not:

11 (a) Require any individual or entity exempt from federal income tax under section 501(c) of
12 the Internal Revenue Code to provide the public agency with, or otherwise compel the release of, any list,
13 record, register, registry, roll, roster, or other compilation of data of any kind that directly or indirectly
14 identifies a person as a member, supporter, volunteer, or donor of financial or nonfinancial support, to any
15 entity exempt from federal income tax under section 501(c) of the Internal Revenue Code;

16 (b) Release, publicize, or otherwise publicly disclose any list, record, register, registry, roll,
17 roster, or other compilation of data of any kind that directly or indirectly identifies a person as a member,
18 supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal
19 income tax under section 501(c) of the Internal Revenue Code already in possession of the public agency
20 or public body;

21 (c) Request or require a current or prospective contractor or grantee to provide the public
22 agency or public body with a list of entities exempt from federal income tax under section 501(c) of the
23 Internal Revenue Code to which it has provided financial or nonfinancial support; or

24 (d) Release, publicize, or otherwise publicly disclose any list, record, register, registry, roll,
25 roster, or other compilation of data of any kind that directly or indirectly identifies a person as a member,
26 supporter, volunteer, or donor of financial or nonfinancial support to any entity exempt from federal
27 income tax under section 501(c) of the Internal Revenue Code for the purposes of responding to a request
28 under New Hampshire's freedom of information act as outlined in RSA 91-A.

29 91-C:2 Exemptions. This section shall not preclude:

30 I. Any report or disclosure required by the following laws or successor provisions thereto:

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- 1 (a) RSA 14-C relative to gifts for legislators and legislative employees;
- 2 (b) RSA 15 relative to lobbyists;
- 3 (c) RSA 15-A relative to financial disclosures; and
- 4 (d) RSA 664 relative to political expenditures and contributions.

5 II. A public body or agency from releasing a person's status as a member, volunteer, or donor of
6 any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code that was
7 voluntarily released by the person or voluntarily released by the entity to the attorney general or to the
8 public.

9 III. Any lawful warrant for any list, record, register, registry, roll, roster, or other compilation of
10 data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor
11 of financial or nonfinancial support, to any entity exempt from federal income tax under section 501(c) of
12 the Internal Revenue Code issued by a court of competent jurisdiction.

13 IV. A lawful request for discovery of any list, record, register, registry, roll, roster, or other
14 compilation of data of any kind that directly or indirectly identifies a person as a member, supporter,
15 volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal income tax under
16 section 501(c) of the Internal Revenue Code in litigation if both of the following conditions are met:

17 (a) The requestor demonstrates a compelling need for any list, record, register, registry, roll,
18 roster, or other compilation of data of any kind that directly or indirectly identifies a person as a member,
19 supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt from federal
20 income tax under section 501(c) of the Internal Revenue Code by clear and convincing evidence; and

21 (b) The requestor obtains a protective order barring disclosure of any list, record, register,
22 registry, roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as
23 a member, supporter, volunteer, or donor of financial or nonfinancial support, to any entity exempt from
24 federal income tax under section 501(c) of the Internal Revenue Code to any person not named in the
25 litigation.

26 V. Admission of any list, record, register, registry, roll, roster, or other compilation of data of any
27 kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of any entity
28 exempt from federal income tax under section 501(c) of the Internal Revenue Code as relevant evidence
29 before a court of competent jurisdiction. Any filing in court that is subject to this section shall be filed
30 under seal by the offering party. Any party who intends to display or produce any record that is subject to
31 this section in a courtroom during a hearing or trial shall notify the court to allow for the courtroom to be
32 cleared prior to discussion or display of the record. No court shall publicly reveal such information that
33 has been filed in accordance with this paragraph absent a specific finding of good cause.

34 VI. A public body or state agency with oversight function over public funds or a government grant
35 program from requesting documentation sufficient to ensure public funds are expended in accordance
36 with state or federal contract monitoring and audit requirements, given that the information accessed is
37 limited to information related to public funds or government grant program funds.

38 91-C:3 Limited Applicability.

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1 I. Nothing in this chapter shall apply to a national securities association, as defined in section 15A
2 of the Securities Exchange Act of 1934, 15 U.S.C. Section 78o-3, as amended, or regulations adopted
3 thereunder, and any information such national securities association provides to the relevant public
4 agency or body of this state pursuant to the rules and regulations provided by such agency or body.

5 II. Nothing in this chapter shall prohibit a request by the attorney general for information required
6 for an audit, examination, review, or investigation pursuant to RSA 7:24, provided that such information
7 shall only be used in connection with the specific audit, examination, review, or investigation to which the
8 request relates and for any related proceedings, provided further that any information so collected shall
9 otherwise remain subject to the provisions of this chapter.

10 III. Nothing in this chapter shall apply to a request from the lottery commission pursuant to their
11 authority under RSA 287-D or RSA 287-E for the purposes of licensing or regulation of charitable gaming
12 activities.

13 IV. For the purposes of this chapter, the terms "volunteer" and "supporter" shall not include the
14 members of the governing board, officers, directors, registered agents, or incorporators of entities exempt
15 from federal income tax under section 501(c) of the Internal Revenue Code and the term "member" shall
16 not include members of charitable corporations with specific corporate authority as set forth in the articles
17 of agreement or bylaws, and pursuant to RSA 292.

18 V. Nothing in this chapter shall prohibit a government agency from disclosing any list, record,
19 register, registry, roll, roster, or other data that directly or indirectly identifies a person as a member,
20 supporter, volunteer, or donor of any entity exempt from federal income tax under section 501(c) of the
21 Internal Revenue Code in court pleadings, submissions of evidence, or public communications related to
22 a criminal or civil enforcement action filed in court, including, but not limited to, an assurance of
23 discontinuance pursuant to RSA 7:28-f.

24 91-C:4 Penalties.

25 I. A person alleging a violation of this chapter may bring a civil action for appropriate injunctive
26 relief, damages, or both. Damages awarded under this section may include one of the following, as
27 appropriate:

28 (a) A sum of money not less than \$2,500 to compensate for injury or loss caused by each
29 violation of this chapter; or

30 (b) For an intentional violation of this chapter, a sum of money not to exceed \$7,500.

31 II. A court, in rendering a judgment in the action brought under this chapter, may award all or a
32 portion of the costs of litigation, including reasonable attorneys and witness fees, to the complainant in the
33 action if the court determines that the award is appropriate.

34 336:2 Effective Date. This act shall take effect January 1, 2023.

Approved: July 25, 2022
Effective Date: January 01, 2023

