

**Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0634.01 Richard Sweetman x4333

**SENATE BILL 24-129**

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**SENATE SPONSORSHIP**

**Pelton B. and Kolker,**

**HOUSE SPONSORSHIP**

**deGruy Kennedy and Frizell,**

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**Senate Committees**

Business, Labor, & Technology  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING PROTECTING THE PRIVACY OF PERSONS ASSOCIATED**  
102              **WITH NONPROFIT ENTITIES, AND, IN CONNECTION THEREWITH,**  
103              **PROHIBITING PUBLIC AGENCIES FROM TAKING CERTAIN ACTIONS**  
104              **RELATING TO THE COLLECTION AND DISCLOSURE OF DATA THAT**  
105              **MAY IDENTIFY SUCH PERSONS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

With certain exceptions, the bill prohibits a public agency from:

- Requiring any person to provide the public agency with

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.

data that may identify a member of a nonprofit entity (member-specific data) or compelling the disclosure of member-specific data;

- Disclosing member-specific data to any person; or
- Requesting or requiring a current or prospective contractor or a current or prospective grantee of a grant program administered by the public agency to provide a list of nonprofit entities to which the current or prospective contractor or grantee has provided financial or nonfinancial support.

A nonprofit entity or any of its members affected adversely by a public agency's violation of the bill's provisions may initiate a civil action against the public agency in district court for injunctive relief, damages, or such other relief as is appropriate. Notwithstanding existing laws concerning governmental immunity, a court may award damages against a public agency that violates the bill's provisions as follows:

- Not less than \$2,500 for each violation; and
- Not less than \$7,500 for each intentional violation.

A court may also award the costs of litigation to a complainant that prevails in such an action.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 7-90-102, **add** (36.5)  
3 and (53.5) as follows:

4 **7-90-102. Definitions.** As used in this title 7, except as otherwise  
5 defined for the purpose of any section, subpart, part, or article of this title  
6 7, or unless the context otherwise requires:

7 (36.5) "MEMBER-SPECIFIC DATA" MEANS ANY DOCUMENT, LIST,  
8 RECORD, OR COMPILATION OF ONE OR MORE CATEGORIES OF "PERSONAL  
9 IDENTIFYING INFORMATION", AS DEFINED IN SECTION 18-5-901 (13), THAT  
10 IDENTIFIES, IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, A PERSON AS  
11 A MEMBER,     VOLUNTEER, OR DONOR TO ANY NONPROFIT ENTITY.

12 (53.5) "PUBLIC AGENCY" MEANS ANY STATE OR LOCAL  
13 GOVERNMENTAL UNIT, INCLUDING:

14 (a) THE STATE;

1 (b) ANY DEPARTMENT, AGENCY, OFFICE, COMMISSION, BOARD,  
2 DIVISION, OR OTHER AGENCY OF THE STATE;

3 (c) ANY INSTITUTION, AS DEFINED IN SECTION 24-72-202 (1.5);  
4 AND

5 (d) ANY POLITICAL SUBDIVISION, AS DEFINED IN SECTION  
6 24-72-202 (5).

7 **SECTION 2.** In Colorado Revised Statutes, **add** 7-90-107 as  
8 follows:

9 **7-90-107. Protection of member-specific data - nonprofit**  
10 **entities - rights and remedies - legislative declaration.** (1) THE  
11 GENERAL ASSEMBLY FINDS AND DECLARES THAT:

12 (a) GIVEN THE LONG-HELD PROTECTION OF THE FUNDAMENTAL  
13 RIGHTS OF ASSOCIATION AND PRIVACY UNDER THE CONSTITUTIONS OF THE  
14 UNITED STATES AND THE STATE OF COLORADO, IT IS IN THE PUBLIC  
15 INTEREST TO PROHIBIT PUBLIC AGENCIES FROM COLLECTING OR  
16 DISCLOSING MEMBER-SPECIFIC DATA ABOUT MEMBERS OF, VOLUNTEERS  
17 OF, AND FINANCIAL AND NONFINANCIAL DONORS TO NONPROFIT ENTITIES  
18 THAT ARE EXEMPT FROM TAXATION UNDER THE FEDERAL "INTERNAL  
19 REVENUE CODE OF 1986", 26 U.S.C. SEC. 501 (c), AS AMENDED, EXCEPT  
20 AS SUCH COLLECTION OR DISCLOSURE IS PERMITTED BY LAW OR IS  
21 NECESSARY TO ENFORCE OR ENSURE COMPLIANCE WITH THE LAW; AND

22 (b) THE PROVISIONS OF THIS SECTION CONCERNING A PUBLIC  
23 AGENCY'S ACCESS TO OR USE OF MEMBER-SPECIFIC DATA ARE CONSISTENT  
24 WITH:

25 (I) SECTION 7-136-105, WHICH PROHIBITS ANY PERSON FROM  
26 OBTAINING OR USING A NONPROFIT CORPORATION'S MEMBERSHIP LIST FOR  
27 ANY PURPOSE UNRELATED TO A MEMBER'S INTEREST AS A MEMBER; AND

1 (II) SECTION 24-73-102, WHICH REQUIRES GOVERNMENTAL  
2 ENTITIES TO PROTECT ACCESS TO CERTAIN TYPES OF PERSONAL  
3 IDENTIFYING INFORMATION.

4 (2)   EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION  
5 OR AS OTHERWISE PERMITTED BY LAW OR AS IS NECESSARY TO ENFORCE  
6 OR ENSURE COMPLIANCE WITH THE STATE CONSTITUTION OR AN  
7 APPLICABLE FEDERAL, STATE, OR LOCAL STATUTE, CHARTER PROVISION,  
8 RESOLUTION, ORDINANCE, RULE, OR REGULATION, A PUBLIC AGENCY  
9 SHALL NOT:

10 (a) REQUIRE ANY PERSON, INCLUDING A NONPROFIT ENTITY OR AN  
11 OFFICER, DIRECTOR, EMPLOYEE, OR AGENT OF A NONPROFIT ENTITY, TO  
12 PROVIDE THE PUBLIC AGENCY WITH MEMBER-SPECIFIC DATA OR  
13 OTHERWISE COMPEL THE DISCLOSURE OF MEMBER-SPECIFIC DATA;

14 (b) DISCLOSE TO ANY PERSON ONE OR MORE ITEMS OF  
15 MEMBER-SPECIFIC DATA, INCLUDING A COMPLETE OR PARTIAL LIST OF  
16 NONPROFIT ENTITY MEMBERS WHO ARE EMPLOYED BY A PUBLIC AGENCY  
17 OR ANY INFORMATION INCLUDED IN A NONPROFIT ENTITY MEMBER'S  
18 PERSONNEL FILES AS DEFINED IN SECTION 24-72-202 (4.5); OR

19 (c) REQUEST OR REQUIRE A CURRENT OR PROSPECTIVE  
20 CONTRACTOR OR A CURRENT OR PROSPECTIVE GRANTEE OF A GRANT  
21 PROGRAM ADMINISTERED BY THE PUBLIC AGENCY TO PROVIDE A LIST OF  
22 NONPROFIT ENTITIES TO WHICH THE CURRENT OR PROSPECTIVE  
23 CONTRACTOR OR GRANTEE HAS PROVIDED FINANCIAL OR NONFINANCIAL  
24 SUPPORT.

25    
26 (3) THIS SECTION DOES NOT PRECLUDE A PUBLIC AGENCY FROM  
27 REQUIRING PRODUCTION OF A NONPROFIT ENTITY'S MEMBER-SPECIFIC

1 DATA IF:

2 (a) THE MEMBER-SPECIFIC DATA IS SPECIFICALLY IDENTIFIED IN A  
3 LAWFUL SUBPOENA OR WARRANT ISSUED BY A COURT OF COMPETENT  
4 JURISDICTION OR IS ISSUED UNDER THE AGENCY'S STATUTORY OR  
5 CONSTITUTIONAL AUTHORITY IN AN ADMINISTRATIVE, CIVIL, OR CRIMINAL  
6 FILING IN A COURT OF COMPETENT JURISDICTION OR IN AN  
7 ADMINISTRATIVE PROCEEDING BEFORE AN ADMINISTRATIVE LAW JUDGE,  
8 A HEARING OFFICER, OR OTHER DULY AUTHORIZED, QUASI-JUDICIAL  
9 OFFICIAL, INCLUDING THE INDEPENDENT ETHICS COMMISSION AS  
10 AUTHORIZED BY ARTICLE XXIX OF THE STATE CONSTITUTION;

11 (b) IN DISCOVERY UNDER THE COLORADO RULES OF CIVIL  
12 PROCEDURE, A COURT OF COMPETENT JURISDICTION, AN ADMINISTRATIVE  
13 LAW JUDGE, A HEARING OFFICER, OR OTHER DULY AUTHORIZED,  
14 QUASI-JUDICIAL OFFICIAL, INCLUDING THE INDEPENDENT ETHICS  
15 COMMISSION AS AUTHORIZED BY ARTICLE XXIX OF THE STATE  
16 CONSTITUTION, ENTERS A PROTECTIVE ORDER PROHIBITING THE PUBLIC  
17 DISCLOSURE OF THE MEMBER-SPECIFIC DATA TO ANY PERSON OTHER THAN  
18 COUNSEL IN AND THE PARTIES TO A LEGAL ACTION;

19 (c) THE MEMBER-SPECIFIC DATA IS ADMITTED INTO EVIDENCE AS  
20 RELEVANT TO PROVING OR DISPROVING THE CLAIMS OR DEFENSES AT ISSUE  
21 BEFORE A COURT OF COMPETENT JURISDICTION, AN ADMINISTRATIVE LAW  
22 JUDGE, A HEARING OFFICER, OR OTHER DULY AUTHORIZED, QUASI-JUDICIAL  
23 OFFICIAL, INCLUDING THE INDEPENDENT ETHICS COMMISSION AS  
24 AUTHORIZED BY ARTICLE XXIX OF THE STATE CONSTITUTION;

25 (d) THE MEMBER-SPECIFIC DATA IS VOLUNTARILY AND PUBLICLY  
26 DISCLOSED BY THE PERSON OR THE NONPROFIT ENTITY TO WHICH IT  
27 RELATES;

1 (e) THE MEMBER-SPECIFIC DATA IS SOUGHT BY A NONPROFIT  
2 ENTITY THAT REQUESTS INFORMATION CONCERNING ITS OWN MEMBERS  
3 FROM A PUBLIC AGENCY BY WHICH THE MEMBERS ARE EMPLOYED;

4 (f) INFORMATION DISCLOSING THE IDENTITY OF ANY DIRECTOR,  
5 OFFICER, REGISTERED AGENT, OR INCORPORATOR OF A NONPROFIT ENTITY  
6 IN A REPORT OR DISCLOSURE IS REQUIRED BY STATUTE TO BE FILED WITH  
7 THE SECRETARY OF STATE OR, FOR UNINCORPORATED ASSOCIATIONS, AN  
8 AGENCY THAT IS DESIGNATED BY LAW; EXCEPT THAT INFORMATION THAT  
9 DIRECTLY IDENTIFIES A PERSON SOLELY BECAUSE THE PERSON IS A  
10 FINANCIAL DONOR TO A NONPROFIT ENTITY SHALL NOT BE DISCLOSED  
11 UNLESS DISCLOSURE IS REQUIRED BY SUBSECTION (3)(g) OF THIS SECTION;

12 (g) THE MEMBER-SPECIFIC DATA IS REQUIRED TO BE MADE PUBLIC  
13 BECAUSE DISCLOSURE OF A CONTRIBUTION OR DONATION MADE BY ONE OR  
14 MORE MEMBERS OF A NONPROFIT ENTITY IS EXPRESSLY REQUIRED BY  
15 FEDERAL, STATE, OR LOCAL CAMPAIGN FINANCE LAWS;

16 (h) THE MEMBER-SPECIFIC DATA IS REQUIRED BY STATUTE OR  
17 REGULATION IN ORDER FOR AN APPLICANT TO QUALIFY FOR OR TO  
18 OPERATE A BUSINESS ACTIVITY IN THE STATE, SO LONG AS THE  
19 MEMBER-SPECIFIC DATA IS USED ONLY IN CONNECTION WITH THE SPECIFIC  
20 APPLICATION TO WHICH THE REQUEST RELATES AND FOR ANY RELATED  
21 PROCEEDINGS;

22 (i) THE MEMBER-SPECIFIC DATA IS NECESSARY TO DETERMINE  
23 COMPLIANCE WITH FEDERAL OR STATE ANTITRUST STATUTES;

24 (j) THE MEMBER-SPECIFIC DATA IS SOUGHT BY A PUBLIC AGENCY  
25 INVESTIGATING ALLEGED VIOLATIONS OF STATE OR LOCAL CIVIL OR  
26 CRIMINAL LAWS AS PERMITTED OR EXPRESSLY REQUIRED BY LAW;

27 (k) THE MEMBER-SPECIFIC DATA IS COLLECTED AND USED FOR THE

1 PURPOSE OF EVALUATING THE SUITABILITY OF APPLICANTS FOR, AND ANY  
2 POTENTIAL CONFLICTS OF INTEREST RESULTING FROM, EMPLOYMENT BY A  
3 PUBLIC AGENCY OR APPOINTMENTS TO STATE OR LOCAL BOARDS,  
4 COMMISSIONS, ADVISORY COMMITTEES, TASK FORCES, GRANT  
5 APPLICATION REVIEW COMMITTEES, OR COMPARABLE ENTITIES, SO LONG  
6 AS THE MEMBER-SPECIFIC DATA IS USED ONLY IN CONNECTION WITH THE  
7 SPECIFIC APPLICATION FOR AN APPOINTMENT TO WHICH THE REQUEST  
8 RELATES AND FOR ANY RELATED PROCEEDINGS;

9 (l) THE MEMBER-SPECIFIC DATA IS COLLECTED AND USED IN ORDER  
10 TO DETERMINE WHETHER A PERSON APPLYING FOR OR RENEWING ANY  
11 GRANT, BENEFITS, FINANCING, OR PAYMENTS FROM OR THROUGH, OR ANY  
12 CONTRACT WITH, A PUBLIC AGENCY SHOULD BE AWARDED THE GRANT,  
13 BENEFITS, FINANCING, PAYMENTS, OR CONTRACT AND INCLUDES  
14 INFORMATION PERTAINING TO PERSONS RELATED TO OR AFFILIATED WITH  
15 THE APPLICANT, SO LONG AS THE MEMBER-SPECIFIC DATA IS USED ONLY IN  
16 CONNECTION WITH THE SPECIFIC APPLICATION FOR, OR RENEWAL OF, A  
17 GRANT, BENEFITS, FINANCING, OR PAYMENTS TO WHICH THE REQUEST  
18 RELATES AND FOR ANY RELATED PROCEEDINGS;

19 (m) THE MEMBER-SPECIFIC DATA IS COLLECTED AND USED IN AN  
20 AUDIT CONDUCTED BY A PUBLIC AGENCY TO ENSURE APPROPRIATE USE OF  
21 PUBLIC RESOURCES OR THAT THE PUBLIC AGENCY'S ACTS ARE CONSISTENT  
22 WITH ITS STATUTORY OR REGULATORY DUTIES AND POWERS, SO LONG AS  
23 THE MEMBER-SPECIFIC DATA IS USED ONLY IN CONNECTION WITH THE  
24 SPECIFIC AUDIT TO WHICH THE REQUEST RELATES AND FOR ANY RELATED  
25 PROCEEDINGS;

26 (n) THE MEMBER-SPECIFIC DATA IS COLLECTED AND USED BY A  
27 PUBLIC AGENCY THAT IS FORMED AS A NONPROFIT ENTITY WHERE SUCH

1 MEMBER-SPECIFIC DATA IS USED, EITHER DIRECTLY BY THE PUBLIC  
2 AGENCY OR THROUGH ITS AUTHORIZED AGENT, SOLELY TO CONTACT,  
3 INFORM, OR SOLICIT ITS DUES-PAYING MEMBERS OR DONORS, OR TO SEEK  
4 UPDATES OF THEIR MEMBER-SPECIFIC DATA;

5 (o) THE MEMBER-SPECIFIC DATA IS SOUGHT BY THE DEPARTMENT  
6 OF REVENUE TO DETERMINE A TAXPAYER'S COMPLIANCE WITH LAWS  
7 RELATING TO THE DEDUCTION OF CONTRIBUTIONS TO A NONPROFIT ENTITY  
8 FROM A PERSON'S TAXABLE INCOME; OR

9 (p) THE MEMBER-SPECIFIC DATA WAS VOLUNTARILY RELEASED TO  
10 THE PUBLIC AGENCY BY THE PERSON OR THE NONPROFIT ENTITY TO WHICH  
11 THE DATA RELATES.

12 (4) (a) A NONPROFIT ENTITY OR ANY OF ITS MEMBERS AFFECTED  
13 ADVERSELY BY A VIOLATION OF THIS SECTION MAY INITIATE A CIVIL  
14 ACTION IN DISTRICT COURT FOR INJUNCTIVE RELIEF, DAMAGES, OR SUCH  
15 OTHER RELIEF AS IS APPROPRIATE TO ADDRESS THE VIOLATION. SUCH AN  
16 ACTION MUST BE INITIATED AGAINST THE PUBLIC AGENCY THAT SOUGHT  
17 AND OBTAINED, OR IMPROPERLY DISCLOSED, MEMBER-SPECIFIC DATA OF  
18 THE NONPROFIT ENTITY IN VIOLATION OF THIS SECTION.

19 (b) NOTWITHSTANDING THE LIMITATIONS OF THE "COLORADO  
20 GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, DAMAGES  
21 MAY BE AWARDED TO COMPENSATE A PERSON FOR INJURY OR LOSS  
22 CAUSED BY A PUBLIC AGENCY WRONGFULLY REQUIRING THE PRODUCTION  
23 OF, OR WRONGFULLY DISCLOSING, MEMBER-SPECIFIC DATA AS FOLLOWS:

24 (I) EXCEPT AS DESCRIBED IN SUBSECTION (4)(b)(II) OF THIS  
25 SECTION, NOT LESS THAN TWO THOUSAND FIVE HUNDRED DOLLARS FOR  
26 EACH RECKLESS VIOLATION OF THIS SECTION; AND

27 (II) NOT LESS THAN SEVEN THOUSAND FIVE HUNDRED DOLLARS



1 FOR EACH INTENTIONAL VIOLATION OF THIS SECTION.

2 (c) A COURT MAY AWARD THE COSTS OF LITIGATION, INCLUDING  
3 REASONABLE ATTORNEY FEES AND WITNESS FEES, TO A COMPLAINANT  
4 THAT PREVAILS IN AN ACTION DESCRIBED IN THIS SUBSECTION (4).

5 **SECTION 3.** In Colorado Revised Statutes, 24-72-204, **add** (10)  
6 as follows:

7 **24-72-204. Allowance or denial of inspection - grounds -**  
8 **procedure - appeal - definitions - repeal.** (10) THE CUSTODIAN OF ANY  
9 PUBLIC RECORDS SHALL NOT REQUIRE A NONPROFIT ENTITY TO PRODUCE  
10 MEMBER-SPECIFIC DATA, AS DEFINED IN SECTION 7-90-102 (36.5), THAT IS  
11 CONTAINED IN PUBLIC RECORDS WHERE SUCH RECORDS ARE NOT SUBJECT  
12 TO INSPECTION AND COPYING PURSUANT TO THIS SECTION. A CUSTODIAN  
13 SHALL DENY ANY REQUEST TO INSPECT, COPY, OR REPRODUCE ANY  
14 MEMBER-SPECIFIC DATA IN THE POSSESSION OF A PUBLIC AGENCY AND  
15 PROVIDED TO THE PUBLIC AGENCY BY A NONPROFIT ENTITY. A CUSTODIAN  
16 SHALL NOT REQUIRE A NONPROFIT ENTITY TO PRODUCE RECORDS AND  
17 INFORMATION RELATING TO THE IDENTIFICATION OF INDIVIDUAL  
18 EMPLOYEES OF NONPROFIT ENTITIES WITH WHOM THE PUBLIC ENTITY  
19 CONTRACTS FOR SERVICES OR OF INDIVIDUAL EMPLOYEES OF  
20 SUBCONTRACTORS OF SUCH NONPROFIT ENTITIES.

21 **SECTION 4.** **Act subject to petition - effective date -**  
22 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
23 the expiration of the ninety-day period after final adjournment of the  
24 general assembly; except that, if a referendum petition is filed pursuant  
25 to section 1 (3) of article V of the state constitution against this act or an  
26 item, section, or part of this act within such period, then the act, item,  
27 section, or part will not take effect unless approved by the people at the

1 general election to be held in November 2024 and, in such case, will take  
2 effect on the date of the official declaration of the vote thereon by the  
3 governor.

4 (2) This act applies to the collection and disclosure of data  
5 concerning members of a nonprofit entity by a public agency on or after  
6 the applicable effective date of this act.