

SB 103: Personal Information Confidentiality

SB 103 protects an individual's right to privately support nonprofit organizations that represent their beliefs. If a state official or agency violates this protection by making an individual's name, address, and support for nonprofit groups public, either by publication on a public website or other type of broadcast, this bill gives the citizen a right to bring a suit for relief.

South Dakotans value the generosity of its citizens and the important contributions nonprofits provide our residents. This bill would send a strong message to donors of all giving levels that South Dakota will protect their freedom of expression regardless of political, religious or other ideologies.

KEY POINTS:

1. State agencies cannot compel the release of personal information of a nonprofit's donors.
2. Should a state agency possess donor information, it shall not be publicly released.
3. A person who violates this law is guilty of a misdemeanor.
4. A person alleging violation of this act may seek injunctive relief, damages, or both.
5. Exemptions: campaign finance, corporation filings, lawful warrant, litigation discovery, DOR audits of sales and use tax.

WHY NOW?

Across the nation, elected and unelected government officials are unmasking private citizens and waging war against philanthropists based solely on their bias toward a nonprofit's mission.

1. New Mexico: A recent legislative proposal in New Mexico would have required a church to report its donors if its pastor references elected officials, even if just asking congregants to pray for them as they carry out their official duties.
2. California: Then Attorney General Kamala Harris demanded personal information of nonprofits' donors. Her office then published the Schedule Bs of 1,778 nonprofit organizations. Litigation by the Americans for Prosperity Foundation helped put an end to the office's practice of revealing donors.
3. New York: An ongoing court battle is debating the attorney general office's administrative decision to require unredacted Schedule Bs from nonprofit organizations.

In 2021, South Dakota has an opportunity to join Arizona, Louisiana, Mississippi, Oklahoma, Utah, and Wisconsin by taking proactive steps to protect donors. SB 103 is a step in the right direction to protect fundamental freedoms, provide peace of mind to donors and nonprofits, and reduce the threat of retaliation against charitable South Dakotans across a broad spectrum of beliefs and principles.