WEST VIRGINIA CODE CHAPTER 1 ARTICLE 7

WV Legislature

§1-7-1. Legislative purpose.

The purpose of this article is to protect an individual's constitutional right to privately associate with advocacy groups that represent his or her beliefs. As the Supreme Court of the United States held in *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958), compelled disclosure of an advocacy group's donor or membership lists, where such disclosure would discourage association, is a trespass upon the fundamental freedoms protected by the Due Process Clause of the Fourteenth Amendment. Therefore, this article should be liberally construed in favor of an individual's right to association, to ensure that private association is not discouraged or suppressed by any actions of the public agencies of this state.

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§1-7-2. Definitions.

For the purposes of this article:

(1) “Donor or membership information” means any record which identifies an individual’s membership in, or support of, any tax-exempt entity under 26 U.S.C. § 501(c), including information that does not directly identify the individual but which, in combination with other information, would allow a reasonable person to identify the individual. Donor or membership information includes, but is not limited to, a member, donor, or supporter’s name, address, occupation, employer, or any electronic or technical data, including social media accounts, email accounts, location data, or other identifying information.

(2) “Individual” means a person who is a United States citizen, or who is domiciled in the United States, but does not include a foreign agent, foreign government, or foreign principal.

(3) “Public agency” means:

(A) Any department, body, office, commission, board, unit, political subdivision, court, or division of state or local government, however designated; and

(B) Any official, employee, or agent of an entity described in paragraph (A) of this subdivision.

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§1-7-3. Protecting privacy of association.

(a) Except as otherwise provided in chapter 3 of this code, chapter 6B of this code, or subsection (e) of this section, a public agency may not require any tax-exempt organization under 26 U.S.C. § 501(c) to provide the agency with donor or membership information: Provided, That where the public agency nevertheless obtains donor or membership information, such information may not be released unless pursuant to chapter 3 of this code, chapter 6B of this code, or subsection (e) of this section.

(b) A public agency may not release, permit to be released, nor be compelled to release any record which identifies an individual's association with any tax-exempt organization under 26 U.S.C. §501(c), or which reveals an individual's financial or nonfinancial support for such an entity, without the express written permission of the entity and the citizen, or at the request of the citizen.

(c) All donor or membership information is exempt from production or disclosure under the state's Freedom of Information Act, §29B-1-1 et seq. of this code.

(d) A public agency does not violate subsection (a) of this section if donor or membership information is redacted from a disclosed record.

(e) Nothing in this section precludes compliance with a lawful order issued by a court of competent jurisdiction.

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§1-7-4. Civil remedies.

(a) An individual may bring a civil action to enjoin any violation of this article and to recover actual damages incurred by him or her as a result of the violation.

(b) If the plaintiff prevails in a civil action pursuant to this section, he or she is entitled to be reimbursed by the state or public agency for actual costs and such reasonable attorney's fees he or she has incurred in the litigation.

(c) If the judge or jury in a civil action brought pursuant to this section finds that a public agency intentionally disclosed donor or membership information in violation of this article, the amount of the judgment, which for this purpose includes actual damages, costs, and attorney's fees, may be trebled as exemplary damages.

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