**A** **BILL**

TO AMEND SECTION 30‑4‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS USED IN THE “FREEDOM OF INFORMATION ACT”, SO AS TO AMEND THE DEFINITION OF “PUBLIC RECORD” TO EXEMPT INFORMATION DESIGNATED AS “LAW ENFORCEMENT SENSITIVE FOR HOMELAND SECURITY PURPOSES” BY THE DIRECTOR OF THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION; TO AMEND SECTION 30‑4‑40, AS AMENDED, RELATING TO MATTERS EXEMPT FROM DISCLOSURE BY A PUBLIC BODY, SO AS TO EXEMPT CERTAIN HOMELAND SECURITY RELATED INFORMATION; AND TO AMEND SECTION 30‑4‑110, RELATING TO PENALTIES FOR A WILFUL VIOLATION OF THE FREEDOM OF INFORMATION ACT, SO AS TO INCREASE THE PENALTY FOR A WILFUL VIOLATION REGARDING HOMELAND SECURITY RELATED INFORMATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 30‑4‑20(c) of the 1976 Code is amended to read:

“(c) ‘Public record’ includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body. Records such as income tax returns, medical records, hospital medical staff reports, scholastic records, adoption records, records related to registration, and circulation of library materials which contain names or other personally identifying details regarding the users of public, private, school, college, technical college, university, and state institutional libraries and library systems, supported in whole or in part by public funds or expending public funds, or records which reveal the identity of the library patron checking out or requesting an item from the library or using other library services, except nonidentifying administrative and statistical reports of registration and circulation, and other records which by law are required to be closed to the public are not considered to be made open to the public under the provisions of this ~~act~~ chapter; nothing ~~herein~~ in this chapter authorizes or requires the disclosure of those records where the public body, ~~prior to~~ before January 20, 1987, by a favorable vote of three‑fourths of the membership, taken after receipt of a written request, concluded that the public interest was best served by not disclosing them. Nothing ~~herein~~ in this chapter authorizes or requires the disclosure of records of the Board of Financial Institutions pertaining to applications and surveys for charters and branches of banks and savings and loan associations or surveys and examinations of the institutions required to be made by law. Information relating to security plans and devices proposed, adopted, installed, or utilized by a public body, other than amounts expended for adoption, implementation, or installation of these plans and devices, is required to be closed to the public and is not considered to be made open to the public under the provisions of this ~~act~~ chapter. All homeland security related information provided by public or private entities to the South Carolina Law Enforcement Division (SLED), and designated as ‘Law Enforcement Sensitive for Homeland Security Purposes’ by the director of SLED, is exempt from public disclosure.”

SECTION 2. Section 30‑4‑40(a) of the 1976 Code, as last amended by Act 380 of 2006, is further amended by adding:

“(20) All homeland security related information provided by public or private entities to the South Carolina Law Enforcement Division (SLED) and designated as ‘Law Enforcement Sensitive for Homeland Security Purposes’ by the Director of SLED. This does not preclude SLED from using this information to produce documents and reports required by the United States Department of Homeland Security.”

SECTION 3. Section 30‑4‑110 of the 1976 Code is amended to read:

“Section 30‑4‑110. (A) ~~Any~~ A person or group of persons who wilfully violates the provisions of this chapter ~~shall be deemed~~ is guilty of a misdemeanor and, upon conviction, ~~shall~~ must be fined:

(1) not more than one hundred dollars or imprisoned ~~for~~ not more than thirty days for the first offense~~, shall be fined~~;

(2) not more than two hundred dollars or imprisoned ~~for~~ not more than sixty days for the second offense; and ~~shall be fined~~

(3) three hundred dollars or imprisoned ~~for~~ not more than ninety days for the third or subsequent offense.

(B) In addition to a penalty imposed by federal law, a state or local governmental employee and an employee of an entity that submits or receives information pursuant to the provisions of this article who wilfully violates the provisions of this chapter regarding homeland security related information is guilty of a felony and, upon conviction, must be fined:

(1) not more than five thousand dollars or imprisoned not more than two years for the first offense;

(2) not more than ten thousand dollars or imprisoned not more than five years for the second offense; and

(3) fifteen thousand dollars or imprisoned not more than ten years for the third and subsequent offense.”

SECTION 3. This act takes effect upon approval by the Governor.

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