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S.79

Introduced by Senators Sears, Ashe, Balint, and Degree

Referred to Committee on Judiciary

Date: February 9, 2017

Subject: Internal security; public safety; privacy

Statement of purpose of bill as introduced: This bill proposes to promote public safety by protecting Vermont residents from compulsory collection of personally identifying information, or dissemination of that information for purposes of establishing a mandatory federal registry or database.

An act relating to freedom from compulsory collection of personal information

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. FINDINGS~~

~~The Legislature finds and declares the following:~~

~~(1) In Vermont, we celebrate the rich cultural heritage and diversity of our residents.~~

~~(2) All Vermonters should be free from discrimination on the basis of their sex, sexual orientation, gender identity, marital status, race, color, religion, national origin, immigration status, age, or disability.~~

~~(3) Vermont must uphold the protection of religious freedom enshrined~~

1 ~~in the U.S. Constitution and the Vermont Constitution for all its people, and~~
2 the State has a moral obligation to protect its residents from religious
3 persecution.

4 (4) Article 3 of Chapter I of the Vermont Constitution prohibits any
5 power from assuming any authority that interferes with or controls, in any
6 manner, the rights of conscience in the free exercise of religious worship.

7 (5) Article 7 of Chapter I of the Vermont Constitution, also known as
8 the Common Benefits Clause, provides that State benefits and protections are
9 “for the common benefit, protection, and security of the people, nation, or
10 community, and not for the particular emolument or advantage of any single
11 person, family, or set of persons, who are a part only of that community.”

12 (6) Article 19 of Chapter I of the Vermont Constitution provides that all
13 people have a natural and inherent right to emigrate from one state to any other
14 that will receive them.

15 (7) Vermont residents therefore have a right to privacy with respect to
16 religious affiliation and an expectation that religious affiliation or
17 identification shall not affect their residency in the State.

18 (8) Through the Common Benefits Clause, Vermont residents are
19 afforded the benefits and protections of law enforcement and public safety
20 without regard to their sex, sexual orientation, gender identity, marital status,
21 race, color, religion, national origin, immigration status, age, or disability.

1 ~~Consequently, they have a reasonable expectation that government officials~~
2 will not monitor them or otherwise single them out merely on the basis of
3 these characteristics.

4 (9) Vermont State and local law enforcement work tirelessly to protect
5 the rights and security of all Vermonters afforded them under the Vermont and
6 U.S. Constitutions. Moreover, Vermont residents benefit from and are safer
7 through the cooperative and mutually beneficial interaction between local,
8 State, and federal law enforcement, including the U.S. Border Patrol.

9 (10) Vermont residents who are secure in their person, homes, and
10 surroundings are more likely to engage with law enforcement and public safety
11 and other officials and to participate in civic and economic activity and
12 promote public safety by reporting emergencies, crimes, and acting as
13 witnesses. In addition, they are more likely to participate in other forms of
14 civic engagement if they can be assured they will not be singled out solely on
15 the basis of the personal characteristics described in this section.

16 Sec. 2. 20 V.S.A. chapter 207 is added to read:

17 CHAPTER 207. FREEDOM FROM COMPULSORY COLLECTION OF
18 PERSONALLY IDENTIFYING INFORMATION
19 § 4651. COLLECTION AND DISCLOSURE OF PERSONALLY
20 IDENTIFYING INFORMATION

21 ~~(a) As used in this section, "personally identifying information" means~~

1 ~~information concerning a person's sex, sexual orientation, gender identity,~~
2 marital status, race, color, religion, national origin, immigration status, age, or
3 disability.

4 (b) Upon the effective date of this legislation, no employee or agent of a
5 State, county, or municipal government agency shall:

6 (1) collect information regarding the private religious beliefs, practices,
7 or affiliation of any individual for the purpose of registration;

8 (2) provide or disclose to federal government authorities personally
9 identifiable information for the purpose of the registration of individuals; or

10 (3) use agency money, facilities, property, equipment, or personnel to
11 assist in creating or enforcing any federal government program for the
12 registration of individuals.

13 (c) Any agreements in existence on the effective date of this section that
14 make any agency or department information or database available in conflict
15 with the terms of this chapter are terminated on that date to the extent of the
16 conflict.

17 (d) Nothing in this section is intended to prohibit or impede any State or
18 local agency from complying with the lawful requirements of 8 U.S.C.
19 §§ 1373 and 1644. To the extent any State or local law enforcement policy or
20 practice conflicts with the lawful requirements of 8 U.S.C. §§ 1373 and 1644,
21 said policy or practice is, to the extent of such conflict, abolished.

1 ~~(e) Nothing in this section is intended to prevent any State, county, or~~
2 ~~municipal agency from exchanging aggregated, deidentified information with~~
3 ~~other local, State, or federal agencies.~~

4 § 4652. GOVERNOR AUTHORIZED TO ENTER INTO AGREEMENTS

5 PURSUANT TO 8 U.S.C. § 1357(g) AND 19 U.S.C. § 1401(i)

6 (a) Only the Governor may enter into a Memorandum of Agreement or
7 other agreement pursuant to 8 U.S.C. § 1357(g) or 19 U.S.C. § 1401(i).

8 (b) A State, county, or municipal law enforcement agency may enter into a
9 Memorandum of Agreement pursuant to 8 U.S.C. § 1357(g) or 19 U.S.C.
10 § 1401(i) where necessary to preserve the public safety or welfare of
11 Vermonters after a declaration of State or national emergency.

12 Sec. 3. EFFECTIVE DATE

13 ~~This act shall take effect on July 1, 2017.~~

Sec. 1. FINDINGS AND LEGISLATIVE INTENT

The General Assembly finds that:

(1) In Vermont, we celebrate the rich cultural heritage and diversity of our residents.

(2) All Vermont residents should be free from discrimination on the basis of their sex, sexual orientation, gender identity, marital status, race, color, religion, national origin, immigration status, age, or disability.

(3) Vermont must uphold the protection of religious freedom enshrined in the U.S. Constitution and the Vermont Constitution for all its people, and the State has a moral obligation to protect its residents from religious persecution.

(4) Article 3 of Chapter I of the Vermont Constitution prohibits any power from assuming any authority that interferes with or controls, in any manner, the rights of conscience in the free exercise of religious worship.

(5) Article 7 of Chapter I of the Vermont Constitution, also known as the Common Benefits Clause, provides that State benefits and protections are “for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single person, family, or set of persons, who are a part only of that community.”

(6) Vermont residents have a right to privacy with respect to religious affiliation and an expectation that religious affiliation or identification shall not affect their residency in the State.

(7) Vermont residents are afforded the benefits and protections of law enforcement and public safety without regard to their sex, sexual orientation, gender identity, marital status, race, color, religion, national origin, immigration status, age, or disability. Consequently, they have a reasonable expectation that government officials will not monitor them or otherwise single them out merely on the basis of these characteristics. They likewise have a reasonable expectation that State and local government officials will not contribute to the creation or development of a registry based on the personally identifying information as defined in this act. Indeed, Vermont residents have expressed grave concerns that the federal government seeks to create or develop such a registry, which would be contrary to Vermont and American values. This act is intended to narrowly address those concerns without impeding Vermont residents’ enjoyment of other legal rights and benefits.

(8) Vermont State and local law enforcement work tirelessly to protect the rights and security of all Vermont residents afforded them under the Vermont and U.S. Constitutions. Moreover, Vermont residents benefit from and are safer through the cooperative and mutually beneficial interaction between local, State, and federal law enforcement, including the U.S. Border Patrol.

(9) Vermont residents are more likely to engage with law enforcement and other officials by reporting emergencies, crimes, and acting as witnesses; to participate in economic activity; and to be engaged in civic life if they can be assured they will not be singled out on the basis of the personally identifying information as defined in this act.

(10) This act is not intended to interfere with the enforcement of Vermont’s public safety laws or efforts to prioritize immigration enforcement concerning individuals who pose a threat to Vermont’s public safety.

(11) The State of Vermont therefore has a substantial, sovereign interest in prohibiting State and local government officials from collecting or disclosing certain information to federal authorities for the purposes of registration of its residents based on the personally identifying information as defined in this act. These prohibitions are not intended to interfere with

Vermont residents' rights to free and equal access to government benefits and protection or the collection or sharing of data necessary to provide such benefits and protections.

Sec. 2. 20 V.S.A. chapter 207 is added to read:

CHAPTER 207. PROTECTION OF PERSONALLY IDENTIFYING
INFORMATION

§ 4651. PROHIBITED DISCLOSURE OF PERSONALLY IDENTIFYING
INFORMATION

(a) As used in this section:

(1) "Personally identifying information" means information concerning a person's sex, sexual orientation, gender identity, marital status, race, color, religion, national origin, immigration status, age, or disability.

(2) "Public agency" has the same meaning as in 1 V.S.A. § 317 and shall include all officers, employees, agents, and independent contractors of the public agency.

(b) A public agency shall not:

(1) collect information regarding the religious beliefs, practices, or affiliation of any individual for the purpose of registration of an individual based on his or her religious beliefs, practices, or affiliations;

(2) knowingly disclose personally identifying information to any federal agency or official for the purpose of registration of an individual based on his or her personally identifying information; or

(3) use public agency money, facilities, property, equipment, or personnel to assist in creating or enforcing any federal government program for the registration of an individual based on his or her personally identifying information.

(c) Any section, term, or provision of an agreement in existence on the effective date of this section that conflicts with subsection (b) of this section shall be invalidated on that date to the extent of the conflict.

(d) Nothing in this section is intended to prohibit or impede any public agency from complying with the lawful requirements of 8 U.S.C. §§ 1373 and 1644. To the extent any State or local law enforcement policy or practice conflicts with the lawful requirements of 8 U.S.C. §§ 1373 and 1644, said policy or practice is, to the extent of such conflict, abolished.

(e) Nothing in this section is intended to prohibit or impede any public agency from disclosing or exchanging aggregated information that cannot be

used to identify an individual with any other public agency or federal agency or official.

§ 4652. AUTHORIZATION TO ENTER INTO AGREEMENTS
PURSUANT TO 8 U.S.C. § 1357(g) AND 19 U.S.C. § 1401(i)

(a) Notwithstanding any other provision of law, only the Governor, in consultation with the Vermont Attorney General, is authorized to enter into, modify, or extend an agreement pursuant to 8 U.S.C. § 1357(g) or 19 U.S.C. § 1401(i).

(b) Notwithstanding subsection (a) of this section, a State, county, or municipal law enforcement agency is authorized to enter into an agreement pursuant to 8 U.S.C. § 1357(g) or 19 U.S.C. § 1401(i) when necessary to address threats to the public safety or welfare of Vermont residents arising out of a declaration of a State or national emergency.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.