



## Senate Bill 62 and Donor Privacy

In 2021, the [U.S. Supreme Court ruled](#) that California could not enforce a blanket requirement that all nonprofits in the state submit to state officials, on a confidential basis, their unredacted Schedule B from their IRS Form 990. Schedule B is required to be submitted to the IRS as part of an organization's annual IRS Form 990 submission if the 501 (c)(3) nonprofit has donors making contributions of \$5000 or more.

Here in Kentucky, [Senate Bill 62](#) was filed to "codify" this ruling into Kentucky law. Similar legislation is being filed in states across the nation. KNN has received several emails about this legislation, and we want to clarify a few facts about donor privacy:

- Charitable 501 (c)(3) nonprofit donor information is secure and confidential.
- Donor privacy is important to all charitable 501 (c)(3) nonprofits - you honor a donor's requests to remain anonymous when listing donors in an annual report or on your website; protecting donor privacy is a priority of [KNN's public policy agenda](#); KNN's [Principles & Practices for Nonprofit Excellence in KY](#) reference the importance of donor privacy; and the Association of Fundraising Professionals prioritizes privacy in its [Donor Bill of Rights](#).
- Schedule B is only required to be submitted with a 501 (c)(3) charitable nonprofit's annual IRS Form 990 if the organization has a donor(s) of \$5000 or more. After submission to the IRS, any required Schedule B is redacted from a nonprofit's IRS Form 990. It is redacted from the 990 posted on GuideStar and elsewhere. And your nonprofit is NOT required to submit Schedule B when you [register each year with the Consumer Protection Division of the KY Office of the Attorney General to legally raise funds in KY](#).
- Public trust depends on a balance. In addition to valuing donor privacy, charitable nonprofits also value reasonable, non-burdensome transparency and accountability. When "bad apple charities" threaten the integrity of the sector, nonprofits want to be sure that law enforcement has the tools they need to hold them accountable and protect consumers. Every story of a fraudulent nonprofit diminishes trust in the sector and for this reason, oversight of nonprofits is a good thing.
- When law enforcement does access a nonprofit's donor information from the IRS, it is done only on a case-by-case basis and only after jumping through several hoops. And the state can demand donor information from individual nonprofits only as part of a consumer protection investigation. In these cases, the information must remain confidential unless disclosed as part of a formal enforcement action with court supervision.

KNN is concerned about Senate Bill 62 because donor privacy is a first amendment right. Challenges to this right have been overturned by the U.S. Supreme Court. A member has never contacted KNN with concerns related to this issue. Why do we need an additional state law? More importantly, we are concerned that there could be unintended consequences from this legislation that damages the integrity of our sector. Any potential for the charitable nonprofit sector to be hijacked by partisan interests concerns us because the public trust is essential for your ability to continue meeting community needs.

KNN is developing recommended changes for consideration by the bill sponsor, and we will continue to keep you updated should any call to action be needed. Until then, we reiterate that charitable 501 (c)(3) nonprofit donor information is secure and confidential.