

Act 903 of the 1989 Regular Session.

Act 903

HB1541

By: Representative Lendall

"AN ACT TO PROVIDE THAT LIBRARY RECORDS CONTAINING NAMES OR OTHER PERSONALLY IDENTIFYING DETAILS REGARDING THE PATRONS OF THE LIBRARY SHALL BE CONFIDENTIAL; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. (a) "Patron" means any individual who requests, uses or receives services, books or other materials from a library.

(b) "Confidential library records" means documents or information in any format retained in a library that identify a patron as having requested, used or obtained specific materials including, but not limited to, circulation of library books, materials, computer data base searches, inter-library loan transactions, reference queries, patent searches, requests for photocopies of library materials, title reserve requests or the use of audio-visual materials, films or records.

SECTION 2. (a) Library records which contain names or other personally identifying details regarding the patrons of public, school, academic and special libraries and library systems supported in whole or in part by public funds shall be confidential and shall not be disclosed except as permitted by this act.

(b) A library may disclose personally identifiable information concerning any patron:

- (1) to the patron;
- (2) to any person with the informed, written consent of the patron given at the time the disclosure is sought; or
- (3) to law enforcement agency or civil court, pursuant to a search warrant.

(c) Personally identifiable information obtained in any manner other than as provided in this act shall not be received in evidence in any trial, hearing, arbitration or other proceeding before any court, grand jury, department, officer, agency, regulatory body, legislative committee or other authority of the state or political subdivision of the state.

(d) No provision of this act shall be construed to prohibit any library or any business operating jointly with a library from disclosing information for the purpose of collecting overdue books, documents, films or other items and/or materials owned or otherwise belonging to such library. Nor shall any provision of this act be construed as to prohibit or hinder any such library or business office from collecting fines on such overdue books, documents, films or other items and/or materials.

(e) Aggregate statistics shown from registration and circulation records with all personal identification removed may be released or used by library or library system for research or planning purposes.

(f) Any person who knowingly violates any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not more than two hundred dollars (\$200.00) or thirty (30) days in jail, or both, or a sentence of appropriate public service or education, or both.

(g) No liability shall result from any lawful disclosure permitted by this act.

(h) No action may be brought under this act unless such action is begun within two (2) years from the date of the act complained of or the date of discovery.

(i) Public libraries shall use an automated or Gaylord type circulation system that does not identify a patron with circulated materials after materials are returned.

SECTION 3. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 5. EMERGENCY. It is hereby found and determined by the General Assembly that present law provides no protection of privacy for library records; that it is in the best interests of the people of this state to have their privacy protected; that this act will, in fact, protect the privacy of library patrons. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: March 23, 1989
