

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1541

By: Representative Lendall

For An Act To Be Entitled

"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 methods of storing information retained in a library that identify a patron as having requested, used or obtained specific materials including, but not limited to, circulation of library 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, civil court, or person pursuant to a court order if:

(A) the patron is given reasonable notice of the court proceeding relevant to the issuance of the court order and is afforded the opportunity to appear and contest the claim of the law enforcement agency, court or person seeking the disclosure, and

(B) such clear and convincing evidence is offered that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought is highly probative and material to the case.

(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 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) A library or an agent or employee of a library which violates this act shall be liable to the person identified in any record that is improperly disclosed or released. The person identified may bring a civil action for actual damages or two hundred and fifty dollars (\$250.00), whichever is greater, reasonable attorney fees and other litigation costs reasonably incurred, punitive damages and other such preliminary and equitable relief as the court determines to be appropriate.

(g) No liability shall result in a 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.

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.

