

SENATE, No. 2040

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:
Senator NIA H. GILL
District 34 (Essex and Passaic)

SYNOPSIS

Enacts the “Reader Privacy Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning reader privacy and supplementing P.L.1960,
2 c.39 (C.56:8-1 et seq.).
3

4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:
6

7 1. This act shall be known as the “Reader Privacy Act.”
8

9 2. As used in this act:

10 “Book” means paginated or similarly organized content in
11 printed, audio, electronic, or other format, including fiction,
12 nonfiction, academic, or other works of the type normally published
13 in a volume or finite number of volumes, excluding serial
14 publications such as a magazine or newspaper.

15 “Book service” means a service that, as its primary purpose,
16 provides the rental, purchase, borrowing, browsing, or viewing of
17 books. “Book service” does not include a store that sells a variety
18 of consumer products when the book service sales do not exceed
19 two percent of the store’s total annual gross sales of consumer
20 products sold in the United States.

21 “Government entity” means any State, or local unit of
22 government or any agency or instrumentality thereof.

23 “Law enforcement entity” means any law enforcement officer of
24 the State of New Jersey or of a political subdivision thereof who is
25 empowered by law to conduct criminal investigations, or to make
26 arrests, and any attorney authorized by law to prosecute or
27 participate in the prosecution of criminal offenses.

28 “Personal information” means: (1) any information that
29 identifies, relates to, describes, or is associated with a particular
30 user’s use of a book service; (2) a unique identifier or Internet
31 Protocol address, when that identifier or address is used to identify,
32 relate to, describe, or be associated with a particular user, as related
33 to the user’s use of a book service, or book, in whole or in partial
34 form; (3) any information that relates to, or is capable of being
35 associated with, a particular book service user’s access to a book
36 service.

37 “Provider” means any commercial entity offering a book service
38 to the public.
39

40 3. a. A provider shall only disclose personal information of a
41 book service user to a law enforcement entity pursuant to a court
42 order. A court shall only issue an order if it finds that:

43 (1) Probable cause exists to believe the personal information
44 requested is relevant and material to an ongoing criminal
45 investigation;

46 (2) The law enforcement entity seeking disclosure has a
47 compelling interest in obtaining the personal information sought;

1 (3) The personal information sought cannot be obtained through
2 less intrusive means; and

3 (4) The law enforcement entity affords, in a timely manner, the
4 provider with notice of the proceeding to allow the provider the
5 opportunity to appear and contest the issuance of the order.

6 b. The court order may only be executed if, contemporaneously
7 with its execution, the law enforcement entity notifies the book
8 service user of the order and informs the provider of this
9 notification, unless there is a judicial determination of a necessity to
10 delay notification for a reasonable period of time, not to exceed 90
11 days.

12
13 4. a. A provider shall only disclose the personal information of
14 a book service user to a government entity, other than a law
15 enforcement entity, or to a person or private entity pursuant to a
16 court order in a pending action brought by the government entity or
17 by the person or private entity. A court shall only issue an order if
18 it finds that:

19 (1) The person or entity seeking disclosure has a compelling
20 interest in obtaining the personal information sought;

21 (2) The personal information cannot be obtained through less
22 intrusive means; and

23 (3) The person or entity affords, in a timely manner, the
24 provider with notice of the proceeding to allow the provider the
25 opportunity to appear and contest the issuance of the order.

26 b. Upon issuance of the court order, the personal information
27 may only be disclosed if the provider gives timely notice to the
28 book service user about the issuance of the order and the ability to
29 move the court to quash or modify the order. The user shall have
30 30 days following notification to so move the court.

31 c. Notwithstanding the provisions of subsection a. or b. of this
32 section, a provider serving an institution of higher education shall
33 not be required to obtain a court order whenever the provider is
34 required to disclose information to a government entity in order to
35 be reimbursed for the sale or rental of a book that was purchased or
36 rented by a student using book vouchers or other financial aid
37 subsidies for books.

38
39 5. A provider shall disclose the personal information of a book
40 service user to any person, private entity or government entity,
41 including a law enforcement entity, if the user has given his or her
42 informed consent to the specific disclosure for the specific purpose.

43
44 6. A provider shall disclose the personal information of a book
45 service user to a government entity, including a law enforcement
46 entity, if the government entity asserts, and the provider in good
47 faith believes, that there is an imminent danger of death or serious
48 physical injury requiring the immediate disclosure of the requested

1 personal information and there is insufficient time to obtain a court
2 order. The government entity shall provide the provider with a
3 written statement setting forth the facts giving rise to the emergency
4 upon request or no later than 48 hours after seeking disclosure.

5
6 7. A provider may disclose personal information of a book
7 service user to a law enforcement entity if the provider in good faith
8 believes that the personal information is evidence directly related to
9 a crime against the provider or that user.

10
11 8. a. A violation of this act shall be punishable by a civil
12 penalty of \$500 per violation, to be collected in a civil action by
13 summary proceeding pursuant to the "Penalty Enforcement Law of
14 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

15 b. In addition to the penalty described in subsection a. of this
16 section the court may impose an additional civil penalty of \$500 per
17 violation, which shall, upon collection, be distributed to the book
18 service user aggrieved by the violation. Nothing in this act shall
19 preclude a book service user aggrieved by a violation from
20 instituting a separate civil action in the Superior Court to recover
21 damages, reasonable attorneys fees or costs related to the violation.

22
23 9. This act shall take effect immediately.

24 25 26 STATEMENT

27
28 The bill enacts the "Reader Privacy Act," which extends reader
29 privacy protections to book purchases, including the purchase of
30 electronic books (e-books).

31 Under current law, library records which contain the names or
32 other personally identifying details regarding the users of libraries
33 are confidential and protected from disclosure except in certain
34 circumstances. This bill extends similar protections to the readers
35 and purchasers of books and e-books.

36 The bill defines a "book service" as a service that, as its primary
37 purpose, provides the rental, purchase, borrowing, browsing, or
38 viewing of books. Under the provisions of the bill, a provider of a
39 book service may only disclose the personal information of a book
40 service user in the following circumstances:

- 41 • to a law enforcement entity pursuant to a court order if the
42 personal information requested is relevant and material to an
43 ongoing criminal investigation;
- 44 • to a person, private entity or non-law enforcement
45 government entity pursuant to court order in a pending
46 action brought by the person, private entity or government
47 entity if the person or entity seeking disclosure has a

- 1 compelling interest in obtaining the personal information
2 sought;
- 3 • with a book service user's informed consent;
 - 4 • if a law enforcement entity, or other government entity
5 asserts, and the provider in good faith believes, that there is
6 an imminent danger of death or serious physical injury
7 requiring the immediate disclosure; or
 - 8 • to a law enforcement entity if the provider in good faith
9 believes that the personal information is evidence directly
10 related to a crime against the provider or that user.

11 A provider serving an institution of higher education would be
12 exempt from the requirement to obtain a court order, whenever the
13 provider is required to disclose information to a government entity
14 in order to be reimbursed for the sale or rental of a book that was
15 purchased or rented by a student using book vouchers or other
16 financial aid subsidies for books.

17 The bill provides that a violation of the bill is punishable by a
18 civil penalty of \$500, and that the court may impose an additional
19 civil penalty of \$500, which upon collection is to be distributed to
20 the book service user. The bill also clarifies that nothing in the bill
21 precludes a book service user aggrieved by a violation from
22 instituting a separate civil action in the Superior Court to recover
23 damages, reasonable attorneys' fees or costs related to the violation.