

[Second Reprint]

ASSEMBLY, No. 1396

STATE OF NEW JERSEY
216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

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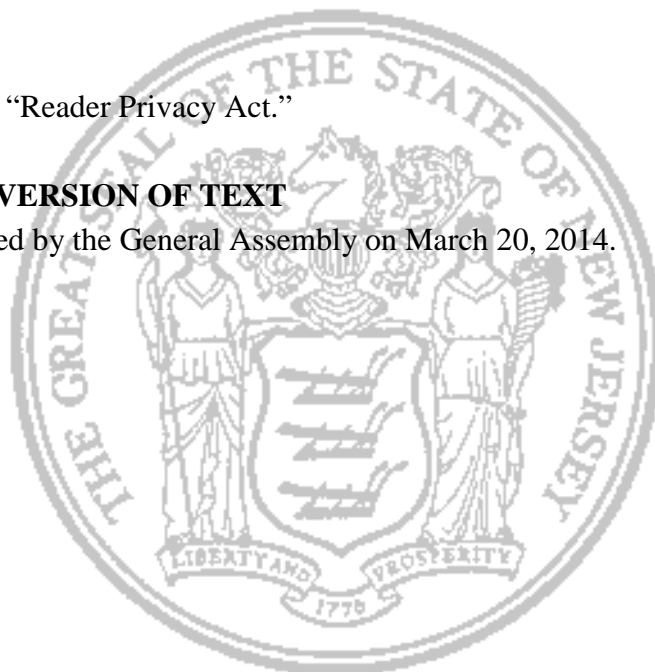
**Assemblywoman Spencer, Assemblymen Caputo, Mainor,
Assemblywomen Tucker, Riley, Assemblymen McGuckin, Wisniewski,
Assemblywoman Oliver, Senators Gill and P.Barnes, III**

SYNOPSIS

Enacts the "Reader Privacy Act."

CURRENT VERSION OF TEXT

As amended by the General Assembly on March 20, 2014.



(Sponsorship Updated As Of: 9/23/2014)

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 ²**[user]** user’s use² of a book service; (2) a unique identifier or
31 Internet Protocol address, when that identifier or address is used to
32 identify, relate to, describe, or be associated with a particular user ²,
33 as related to the user’s use of a book service,² or book, in whole or
34 in partial form; (3) any information that relates to, or is capable of
35 being associated with, a particular book service user’s access ²to a
36 book service².

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:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ACO committee amendments adopted February 20, 2014.

²Assembly floor amendments adopted March 20, 2014.

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

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

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

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

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

17

18 4. a. A provider shall only disclose the personal information of
19 a book service user to a government entity, other than a law
20 enforcement entity, or to a person or private entity pursuant to a
21 court order in a pending action brought by the government entity or
22 by the person or private entity. A court shall only issue an order if
23 it finds that:

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

26 (2) The personal information cannot be obtained through less
27 intrusive means; and

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

31 b. Upon issuance of the court order, the personal information
32 may only be disclosed if the provider gives timely notice to the
33 book service user about the issuance of the order and the ability to
34 move the court to quash or modify the order. The user shall have
35 30 days following notification to so move the court.

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

43

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

1 6. A provider shall disclose the personal information of a book
2 service user to a government entity, including a law enforcement
3 entity, if the government entity asserts, and the provider in good
4 faith believes, that there is an imminent danger of death or serious
5 physical injury requiring the immediate disclosure of the requested
6 personal information and there is insufficient time to obtain a court
7 order. The government entity shall provide the provider with a
8 written statement setting forth the facts giving rise to the emergency
9 upon request or no later than 48 hours after seeking disclosure.

10
11 7. A provider may disclose personal information of a book
12 service user to a law enforcement entity if the provider in good faith
13 believes that the personal information is evidence directly related to
14 a crime against the provider or that user.

15
16 8. a. A violation of this act shall be punishable by a ¹**fine**
17 **civil penalty**¹ of \$500 per violation, to be collected in a civil action by
18 summary proceeding ¹**under** pursuant¹ ²**to** ~~to~~² the “Penalty
19 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).

20 b. In addition to the penalty described in subsection a. of this
21 section, ¹**any book service user aggrieved by a violation of this act**
22 **may recover, in a civil action, \$500 per violation and the costs of**
23 **the action together with reasonable attorneys' fees as determined**
24 **by**¹ the court may impose an additional civil penalty of \$500 per
25 violation, which shall, upon collection, be distributed to the book
26 service user aggrieved by the violation. Nothing in this act shall
27 preclude a book service user aggrieved by a violation from
28 instituting a separate civil action in the Superior Court to recover
29 damages, reasonable attorneys fees or costs related to the violation¹.

30
31 9. This act shall take effect immediately.