

[Third Reprint]

**ASSEMBLY, No. 1396**

**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**Co-Sponsored by:**

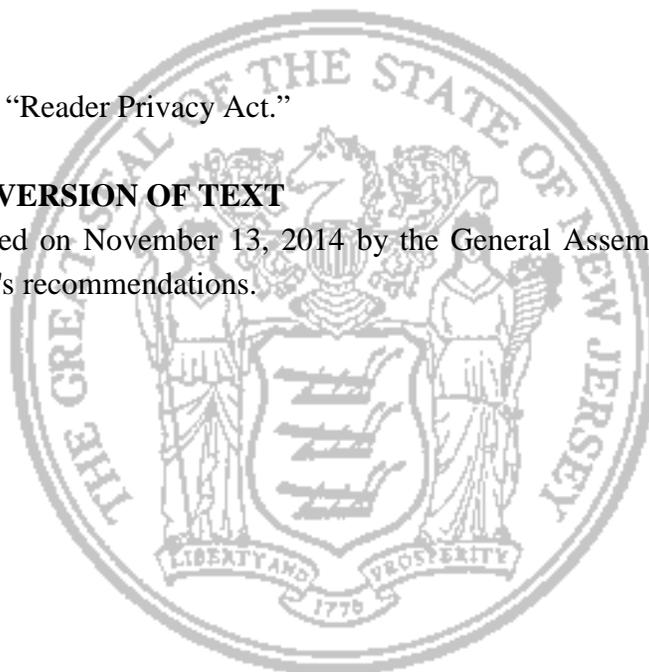
**Assemblywoman Spencer, Assemblymen Caputo, Mainor,  
Assemblywomen Tucker, Riley, Assemblymen McGuckin, Wisniewski,  
Assemblywoman Oliver, Senators Gill and P.Barnes, III**

**SYNOPSIS**

Enacts the "Reader Privacy Act."

**CURRENT VERSION OF TEXT**

As amended on November 13, 2014 by the General Assembly pursuant to the Governor's recommendations.



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

1 AN ACT concerning reader privacy and supplementing <sup>3</sup>[P.L.1960,  
2 c.39 (C.56:8-1 et seq.)] Title 2A of the New Jersey Statutes.<sup>3</sup>

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 <sup>3</sup>, but shall not  
15 include items depicting the sexual exploitation or abuse of a child<sup>3</sup>.

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

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

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

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

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

40 <sup>3</sup>“User” means a person who rents, purchases, borrows, browses,  
41 views or listens to a book offered by a book service.<sup>3</sup>

**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:**

<sup>1</sup>Assembly ACO committee amendments adopted February 20, 2014.

<sup>2</sup>Assembly floor amendments adopted March 20, 2014.

<sup>3</sup>Assembly amendments adopted in accordance with Governor's recommendations November 13, 2014.

1       3. <sup>3</sup>[a. A provider shall only disclose] A law enforcement  
2 entity or other government entity shall not seek the disclosure of  
3 the<sup>3</sup> personal information of a book service user <sup>3</sup>[to a law  
4 enforcement entity pursuant to a court order. A court shall only  
5 issue an order if it finds that:

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

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

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

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

16       b. The court order may only be executed if, contemporaneously  
17 with its execution, the law enforcement entity notifies the book  
18 service user of the order and informs the provider of this  
19 notification, unless there is a judicial determination of a necessity to  
20 delay notification for a reasonable period of time, not to exceed 90  
21 days] from a provider, except in the following circumstances:

22       a. Disclosure is requested or consented to by the user;

23       b. Disclosure is pursuant to a subpoena or court order;

24       c. A government entity requires that a provider serving an  
25 institution of higher education disclose the personal information of  
26 a book service user to a government entity in order to be reimbursed  
27 for the sale or rental of a book that was purchased or rented by a  
28 student using book vouchers or other financial aid subsidies for  
29 books<sup>3</sup>.

30

31       <sup>3</sup>[4.a. A provider shall only disclose the personal information of  
32 a book service user to a government entity, other than a law  
33 enforcement entity, or to a person or private entity pursuant to a  
34 court order in a pending action brought by the government entity or  
35 by the person or private entity. A court shall only issue an order if  
36 it finds that:

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

39       (2) The personal information cannot be obtained through less  
40 intrusive means; and

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

44       b. Upon issuance of the court order, the personal information  
45 may only be disclosed if the provider gives timely notice to the  
46 book service user about the issuance of the order and the ability to

1 move the court to quash or modify the order. The user shall have  
2 30 days following notification to so move the court.

3 c. Notwithstanding the provisions of subsection a. or b. of this  
4 section, a provider serving an institution of higher education shall  
5 not be required to obtain a court order whenever the provider is  
6 required to disclose information to a government entity in order to  
7 be reimbursed for the sale or rental of a book that was purchased or  
8 rented by a student using book vouchers or other financial aid  
9 subsidies for books.]<sup>3</sup>

10

11 <sup>3</sup>[5. A provider shall disclose the personal information of a book  
12 service user to any person, private entity or government entity,  
13 including a law enforcement entity, if the user has given his or her  
14 informed consent to the specific disclosure for the specific  
15 purpose.]<sup>3</sup>

16

17 <sup>3</sup>[6. A] 4. Notwithstanding the provisions of section 3 of P.L.  
18 c. (C. ) (pending before the Legislature as this bill), a law  
19 enforcement entity may seek, and a<sup>3</sup> provider shall disclose <sup>3,3</sup> the  
20 personal information of a book service user <sup>3</sup>[to a government  
21 entity, including a law enforcement entity,]<sup>3</sup> if the <sup>3</sup>[government]  
22 law enforcement<sup>3</sup> entity asserts <sup>3</sup>[, and the provider in good faith  
23 believes,]<sup>3</sup> that there is an imminent danger of death or serious  
24 physical injury requiring the immediate disclosure of the requested  
25 personal information and <sup>3</sup>that<sup>3</sup> there is insufficient time to obtain a  
26 <sup>3</sup>subpoena or<sup>3</sup> court order. The <sup>3</sup>[government] law enforcement<sup>3</sup>  
27 entity shall provide the provider with a written <sup>3</sup>[statement setting  
28 forth the facts giving rise to the emergency] confirmation of its  
29 assertions<sup>3</sup> upon request or no later than <sup>3</sup>[48 hours] seven days<sup>3</sup>  
30 after seeking disclosure.

31

32 <sup>3</sup>[7. A] 5. Nothing in this act shall prevent a<sup>3</sup> provider <sup>3</sup>[may  
33 disclose] from disclosing the<sup>3</sup> personal information of a book  
34 service user to a law enforcement entity if the provider in good faith  
35 believes that the personal information <sup>3</sup>[is] may be<sup>3</sup> evidence  
36 <sup>3</sup>[directly]<sup>3</sup> related to a crime against the provider or that user.

37

38 <sup>3</sup>[8. a. A violation of this act shall be punishable by a <sup>1</sup>[fine]  
39 civil penalty<sup>1</sup> of \$500 per violation, to be collected in a civil action by  
40 summary proceeding <sup>1</sup>[under] pursuant<sup>1</sup> <sup>2</sup>[to] to<sup>2</sup> the “Penalty  
41 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).

42 b. In addition to the penalty described in subsection a. of this  
43 section, <sup>1</sup>[any book service user aggrieved by a violation of this act  
44 may recover, in a civil action, \$500 per violation and the costs of  
45 the action together with reasonable attorneys' fees as determined

1 by<sup>1</sup> the court <sup>1</sup>may impose an additional civil penalty of \$500 per  
2 violation, which shall, upon collection, be distributed to the book  
3 service user aggrieved by the violation. Nothing in this act shall  
4 preclude a book service user aggrieved by a violation from  
5 instituting a separate civil action in the Superior Court to recover  
6 damages, reasonable attorneys fees or costs related to the  
7 violation<sup>1</sup>.<sup>3</sup>

8  
9 <sup>3</sup>[9.] 6.<sup>3</sup> This act shall take effect <sup>3</sup>[immediately] on the first  
10 day of the second month after the date of enactment<sup>3</sup>.