

October 8, 2019

TO: RAILS Consortia Committee

FROM: Deirdre Brennan

ABOUT: Patron confidentiality and privacy

Many issues related to confidentiality and privacy in libraries have arisen over the past several months. At the RAILS Board meeting on September 27, 2019, Julie Tappendorf, attorney at Ancel, Glink, briefed the board on the Library Records Confidentiality Act and how it relates to several issues.

The text of the law is below.

## **LIBRARIES**

### **(75 ILCS 70/) Library Records Confidentiality Act.**

(75 ILCS 70/1) (from Ch. 81, par. 1201)

Sec. 1. (a) The registration and circulation records of a library are confidential information. No person shall publish or make any information contained in such records available to the public unless:

- (1) required to do so under a court order; or
- (2) the information is requested by a sworn law enforcement officer who represents that it is impractical to secure a court order as a result of an emergency where the law enforcement officer has probable cause to believe that there is an imminent danger of physical harm. The information requested must be limited to identifying a suspect, witness, or victim of a crime. The information requested without a court order may not include the disclosure of registration or circulation records that would indicate materials borrowed, resources reviewed, or services used at the library. If requested to do so by the library, the requesting law enforcement officer must sign a form acknowledging the receipt of the information. A library providing the information may seek subsequent judicial review to assess compliance with this Section.

This subsection shall not alter any right to challenge the use or dissemination of patron information that is otherwise permitted by law.

(b) This Section does not prevent a library from publishing or making available to the public reasonable statistical reports regarding library registration and book circulation where those reports are presented so that no individual is identified therein.

(b-5) Nothing in this Section shall be construed as a privacy violation or a breach of confidentiality if a library provides information to a law enforcement officer under item (2) of subsection (a).

(c) For the purpose of this Section, (i) "library" means any public library or library of an educational, historical or eleemosynary institution, organization or society; (ii) "registration records" includes any information a library requires a person to provide in order for that person to become eligible to borrow books and other materials and (iii) "circulation records"

includes all information identifying the individual borrowing particular books or materials.

(Source: P.A. 95-40, eff. 1-1-08.)

75 ILCS 70/2) (from Ch. 81, par. 1202)

Sec. 2. This Act may be cited as the Library Records Confidentiality Act.

(Source: P.A. 86-1475.)

The main issue discussed was the service used at many libraries where users pick up materials they have placed on hold from open shelving. Last spring, a patron at the Chicago Public Library complained that the service, and the process used by CPL, violated the Library Records Confidentiality Act because information about the patron in question and materials on hold could be seen by others.

The complaint reached the offices of Senate President John Cullerton (D 6<sup>th</sup> district) and Senator Linda Holmes (D 42<sup>nd</sup> district). Greg McCormick, Derek Blaida and I met with Senator Holmes last spring, and we agreed to work on policies and procedures that would eliminate the need for legislation or changes to the Library Records Confidentiality Act.

At the board meeting, Julie explained the Library Records Confidentiality Act as being narrow in scope—it prohibits only the release of registration and circulation records. It does not cover patron activities or events at the library, nor images (photos or filming of patrons) nor security camera footage. It only applies to information given to get a library card and information about materials borrowed.

Julie noted, however, that libraries philosophically have a strong interest in protecting patron privacy and have policies in place that do so. ALA also has spoken about privacy through the Library Bill of Rights and related documents.

Julie said that self-pickup of holds, where patron identity and materials borrowed are both visible and linked, is a clear violation of the Library Records Confidentiality Act. She said the use of a code, instead of patron name, would not constitute a violation of the Act.

Board members agreed that best practices around the use of a code and other procedures related to self-pickup of holds should be developed and the library community should be informed. They also expressed that ILS vendors need to work with libraries to ensure that privacy is maintained.

This issue was also discussed at the ILA Public Policy Committee meeting on October 7. The Illinois State Library has filed an amendment to Senate Bill 585 (attached) that deletes clauses prohibiting libraries from using the self-pickup of holds and clarifies the patron information that is covered under the Act.

The Illinois Library Association's Best Practices Committee is currently seeking best practices for self-service hold options that safeguard patron privacy. Its [survey](#) is open until November 1, 2019.

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AMENDMENT TO SENATE BILL 585

AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 585 by replacing everything after the enacting clause with the following:

"Section 5. The Library Records Confidentiality Act is amended by changing Section 1 and by adding Section 5 as follows:

(75 ILCS 70/1) (from Ch. 81, par. 1201)

Sec. 1. (a) The registration and circulation records of a library are confidential information. No person shall publish or make any information, including but not limited to a patron's personal identifiable information, contained in such records available to the public unless:

(1) required to do so under a court order; or

(2) the information is requested by a sworn law enforcement officer who represents that it is impractical to secure a court order as a result of an emergency where the law enforcement officer has probable cause to believe that there is an imminent danger of physical harm. The information requested must be limited to identifying a suspect, witness, or victim of a crime. The information requested without a court order may not include the disclosure of registration or circulation records that would indicate materials borrowed, resources reviewed, or services used at the library. If requested to do so by the library, the requesting law enforcement officer must sign a form acknowledging the receipt of the information. A library providing the information may seek subsequent judicial review to assess compliance with this Section. This subsection shall not alter any right to challenge the use or dissemination of patron information that is otherwise permitted by law.

~~(a-5) A library may not put any part of a patron's last name on material that has been reserved by a patron to check out if the material can be viewed by other persons in the library.~~

(b) This Section does not prevent a library from publishing or making available to the public reasonable statistical reports regarding library registration and book circulation where those reports are presented so that no individual is identified therein.

(b-5) Nothing in this Section shall be construed as a privacy violation or a breach of confidentiality if a library provides information to a law enforcement officer under item (2) of subsection (a).

(c) For the purpose of this Section, (i) "library" means any public library or library of an educational, historical or

eleemosynary institution, organization or society; (ii) "registration records" includes any information a library requires a person to provide in order for that person to become eligible to borrow books and other materials ~~and~~ ;(iii) "circulation records" includes all information identifying the individual borrowing particular books or materials; ~~and~~ (iv) "personal identifiable information" means, individually or collectively, a patron's complete last or first name, address, internet protocol address, social security number, complete telephone number, email address that directly identifies an individual.

(Source: P.A. 95-40, eff. 1-1-08.)

~~(75 ILCS 70/5 new)~~

~~Sec. 5. Violations. A person or entity that violates any provision of this Act commits a petty offense for which a fine of \$100 may be imposed for each violation."~~