

State Statutes or Opinions
Addressing Confidentiality of Library Records
April, 2005

[Full text of laws at <http://www.ala.org/oif/stateprivacylaws>]

<u>State and Code</u>	<u>Exceptions</u>	<u>Types of Libraries</u>	<u>Category</u>
Alabama §41-8-10	D G N O (note 1)	C	confidential
Alaska §40.25.140	A D Q (note 2)	D	confidential
Arizona §41-1354	A B C F (note 2)	B	private
Arkansas §§13-2-701 to 13-2-706	C P O	G	confidential
California §6254j and §6267	E	M	exempt from open records law/confidential
Colorado §24-90-119 and §24-72-204	A B C D F (note #2)	B	Private
Connecticut § 11-25		A	Confidential
Delaware 29 C. §10002(d)(12)		A	exempt from open records law
District of Columbia § 39-108	A C F (note #3)	E	Confidential
Florida §257.261	A D O (note #1, 15)	A	Confidential
Georgia §24-9-46	A C D G (note #2)	M	Confidential
Hawaii Attorney General's Opinion			exempt from open records law
Idaho §9-340E	(note #2)	M	exempt from open records law
Illinois 75 ILCS 70/1 to 75 ILCS 70/ 2 and 5	A O (note #1)	F	Confidential

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ILCS 140/7			
Indiana 5-14-3-4(16)	A B (note #1)	M	exempt from open records law
Iowa §22.7(13)	K	M	exempt from open records law
Kentucky Attorney General Opinion			exempt from open record law
Kansas §45-221(23)	B (note #1)	M	exempt from open records law
Louisiana §44:13	A C D G (note #1)	B G	confidential
Maine 27 MRS §121	A C	H	confidential
Maryland §23-107, §10-616(e) & (f)	B	C	exempt from open records law
Massachusetts Ch. 78, §7	(note #1)	A	exempt from open records law
Michigan §397.601 - §397.606	C H O	I	confidential (note #13)
Minnesota §13.40	A	A	private
Mississippi §39-3-365 to 39-3-369	A C E O	M	confidential
Missouri §§182.815 to 182.817	A C I O (note #1)	I	exempt from open records law
Montana §§22-1-1101 to 22-1-1111	A C E J O (note #1)	I	confidential
Nebraska 84-712.05	L (note 2)	B	confidential
			exempt from open

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Nevada §239.013	A I	J	records law
New Hampshire RSA 91-A:5(iv) and 201:D:11	A B C F O	M	exempt from open records law
New Jersey 18A:73-43.2	A C F (note #1)	K	confidential
New Mexico §18-9-1 - §18-9-6	A C G Q (note #1, 5)	N	private
New York CLS CPLR §4509	A B C F (note #4)	C	confidential
North Carolina §125-19	A B C F O	I	confidential
North Dakota §40-38-12	A	B	exempt from open records law
Ohio ORC §149.43.2	A C D G O (note #14)	P	confidential
Oklahoma §65-1-105	A C G (note #6)	B G	exempt from open records law
Oregon §192.502(22)		M	exempt from open records law
Pennsylvania 24 PSA §4428	A (note 7)	D	confidential
Rhode Island §38-2-2(21) and §11-18-32	(note #2)	A M	exempt from open records law
South Carolina § 60-4-10 - §60-4-30 and § 30-4-20(c)	A C G I O (notes 1, 2, 11)	A B	confidential
South Dakota § 14-2-51	A D G (note #1)	A B	confidential
Tennessee	A C E O (note #2)	I	confidential

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§ 10-8-101 - § 10-8-103			
Texas § 552.124	A B F I	B	confidential; exempt from open records law
Utah §63-2-302 / § 63-2-202	(note #1)	B	private
Vermont 1 VSA §317(c)(19)	(note #1)	O	exempt from open records law
Virginia §2.2-3705.7 (3)	(note #1)	M	exempt from open records law
Washington § 42.17.310(1)(l)	O H (notes #2, 9)	M	exempt from open records law
West Virginia §10-1-22	A C F G (note #12)	A	confidential
Wisconsin §43.30	A C D G (note #10)	B	confidential
Wyoming §16-4-203(d)(ix)	B D G	A	exempt from open records law

EXCEPTIONS TO NON-DISCLOSURE

A – pursuant to a subpoena or court order

B – otherwise required by law

C -- by the written consent of the patron

D -- requested by the parent or guardian of minor child

E --records regarding borrower fines and overdue notices

F -- subject to the reasonable or proper operation of the library

G – to persons acting within the scope of their duties in the administration of the library

H – court order and patron given notice of the request and the opportunity to act on it

I – necessary to protect public safety or to prosecute a crime

J – merits of public disclosure clearly exceed the demand for individual privacy

K – released to a criminal justice agency only pursuant to investigation of a particular person or organization suspected of committing a known crime, or released upon judicial determination that a rational connection exists between the requested release of information and a legitimate end and that the need for the information is cogent and compelling

L – publicly disclosed in open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties

M – the public interest requires disclosure in the particular interest

N – state education department or state public library service for a library under its jurisdiction when it is necessary to assure the proper operation of the library

O – statistics with all personal identification removed may be used for research or planning purposes or studying circulation in general

P – to a law enforcement agency or civil court pursuant to a search warrant.

Q – by school libraries to a parent or legal guardian of an emancipated minor child or legally incapacitated person

TYPES OF LIBRARIES MENTIONED

A – all public libraries

B – a library or library system which, in whole or in part is supported by public funds

C – public, free association, public school, college and university libraries and library systems

D – libraries operated by the state, a municipality, or a public school, including the state university

E – only the state public library

F – any public library or library of an educational, historical, or eleemosynary institution

G – public, academic, school, special libraries and state libraries

H – any public municipal library, including state libraries

I – a library which is established by the state; a county, city township, village, school district, or other local unit of government or authority or combination of local units of governments and authorities; a community college district; a college or university; or any private library open to the public

J – a public library or other library

K – a library maintained by any state or local government agency, school, college, or industrial, commercial, or other special group, association or agency whether public or private

L – public, private, school, college, technical college, university, and state institutional libraries and library systems

M – any library

N – any library receiving public funds, any library that is a state agency and any library established by the state, an instrumentality of the state, a local government, district or authority, whether or not that library is regularly open to the public

O – any library established and maintained by a municipality or by a private association, corporation, or agency to provide library services free of charge to all residents of a municipality or a community and which receives its annual financial support in whole or in part from public funds

P – Any library that is open to the public, including a library that is maintained and regulated by a municipality, a library that is created, maintained, and regulated by the state library board; a library that is created and maintained by a public or private school, college, university, or other educational institution; or a library that is created and maintained by a historical or charitable

organization, institution, association, or society. "Library" includes the members of the governing body and the employees of a library.

MISCELLANEOUS NOTES

1. Registration records, or information which libraries require from a patron who wishes to borrow materials, also are confidential, even if they do not connect a patron with specific materials.
2. Records that identify a patron as "using the library" are confidential
3. The District of Columbia has an established procedure for the defense of confidentiality of library records. The patron whose records have been requested may file a motion in the Superior court of the District of Columbia requesting that the records remain confidential. Once the library receives a subpoena for library records, it must send a copy to all affected library patrons, including a statement of the patron's rights and the reasons a court order to disclose the records might be granted.
4. In New York, confidential records include, but are not limited to, "records related to the circulation of library material, computer database searches, interlibrary loan transactions, reference queries, requests for photocopies of library materials, title reserve requests, or the use of audio visual materials, films, or records.
5. In New Mexico, the library has the right to be represented by counsel at any hearing on disclosure of patron records.
6. In Oklahoma, middle and elementary school libraries are not prohibited from maintaining a system of records identifying individuals or groups to whom materials have been loaned, even if such a system permits a determination, independent of disclosure, that such materials or documents have been loaned to any individual or group.
7. In Pennsylvania, records may be released only by court order in a criminal case.
8. In Virginia, the statute reads that records "may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law."
9. In Washington State, the statute permits disclosure if a court, after a hearing with notice to every party in interest, determines that the exemption of the record "is clearly unnecessary to protect any individual's right of privacy or any vital government function."
10. In Wisconsin, a library may disclose an individual's identity to another library for purposes of borrowing materials if the library to whom the information is disclosed meets one of three conditions.
11. South Carolina's statute requires only "good cause" for disclosure in civil matters.
12. West Virginia's statute reads "ordinary course of business."
13. Michigan's statute has been amended to add a section mandating that any library offering Internet access must provide at least one terminal blocking access to obscene, sexually

explicit, or harmful to minors material, and implement a policy to prevent minors from accessing obscene, sexually explicit, or harmful to minors materials.

14. Ohio's statute permits release of information to a law enforcement officer who is acting in the scope of the officer's law enforcement duties and who is investigating a matter involving public safety in exigent circumstances. It also permits the release of records documenting improper Internet usage, as long as patron information is removed from those records.

15. The exception that allows parents to access the library records of their minor child applies only when the materials are overdue or missing.