



IFC Report, October 12, 2012

The Massachusetts Library Association's Intellectual Freedom Committee (IFC) recently initiated an analysis of Massachusetts General Law Chapter 78, Section 7 with the objective of ascertaining the privacy rights pertaining to the reading records of minors. The IFC wishes to thank April Mazda, Reference Librarian at the Massachusetts Board of Library Commissioners, for the research she conducted and information she supplied, and Dr. Arlene Bielefield, attorney and information science professor at Southern Connecticut State University, for her thoughtful and insightful analysis. April Mazda's research synopsis is attached to this email. A brief summary of MGL Ch 78, sec 7 and links to relevant resources are included in this summary.

The privacy rights attached to the reading records of minors vary from state to state. In Connecticut, for example, parents and guardians have legal rights to access the reading records of minors. However, Massachusetts law does not distinguish between adults and minors in this area. In essence, MGL Ch 78, sec 7 deems reading records of all library patrons to be exempt from public record as mandated by the Public Records Law.

Massachusetts General Law Chapter 78, Section 7

“That part of the records of a public library which reveals the identity and intellectual pursuits of a person using such library shall not be a public record as defined by clause Twenty-sixth of section seven of chapter four. Library authorities may disclose or exchange information relating to library users for the purposes of inter-library cooperation and coordination, including but not limited to, the purposes of facilitating the sharing of resources among library jurisdictions as authorized by clause (1) of section nineteen E or enforcing the provisions of sections ninety-nine and one hundred of chapter two hundred and sixty-six.”

Because it is common practice in libraries to divulge information pertaining to lost, damaged or overdue reading materials and associated fines to the parents/guardians of minors, it is likely that violations of MGL Chap 78 Sec 7 are common. In 1997, the Pollard Memorial Library in Lowell sought an advisory opinion on this matter from the Public Records Division (attached).

In 1999, Representative Peter Koutoujian and Representative Kevin Finnegan filed a bill to amend MGL C 78 s 7 “inserting after the word ‘four’; -“provided, however, parents or legal guardians shall upon request be furnished with a list of materials and books borrowed by their children.” House Docket #4728 was referred to house rules and died in session.

It is strongly advised that libraries adopt a policy on confidentiality of library records. The policy should clearly articulate that MGL Ch 78, Sec 7 stipulates that the circulation records and other records identifying the names of library users are confidential. The policy should also state that in compliance with MGL Ch 78, Sec 7, no information will be released to any person, agency or organization, except in response to a valid court order or subpoena that has been officially presented to the library administrator. For more detailed information and for sample policies, please visit the American Library Association’s [Office for Intellectual Freedom \(OIF\)](#).

Libraries seeking a legal variance from MGL Ch 78, Sec 7 can investigate the feasibility of changes to Public Records Law and library borrowing records through the [Home Rule](#) mechanism, which grants certain powers to cities and towns. Home Rule municipalities can enact charters without state approval in order to organize their local governmental functions to suit the needs of their communities. You can view a list of Massachusetts communities operating under home rule authority [here](#).

Jackie Rafferty, Chair
MLA Intellectual Freedom Committee