

April 2013 Trustee Tip of the Month Firearms in the Library

Since the passage of HB40 in 1996, Kentucky libraries have lacked the statutory authority to ban, restrict, or otherwise regulate the open or concealed carry of firearms in their facilities. Only those libraries which were part of county government held a possible exception to this prohibition, and the number of those was exceedingly small.

This prohibition was expanded and clarified in 2012 when the General Assembly passed an amendment to Kentucky Revised Statute 65.870. This change forbids most government entities, including virtually all special districts or boards, from having any policies, procedures or rules that pertain to the control of firearms.

Due to this change, boards are cautioned that they should review their policies as soon as possible to ensure they are not in violation of 65.870(3). This section, which applies to all public libraries in Kentucky, states that any covered entities shall repeal, rescind, or amend to conform, any ordinance, administrative regulation, executive order, policy, procedure, rule, or other form of executive or legislative action in violation of this section or the spirit thereof within six (6) months after July 12, 2012.

In order to be in compliance with this statute a library board cannot regulate open or concealed carry of firearms. Requirements include removing any signage prohibiting firearm carry and modifying any existing policies to comply with the law. Additionally, a holder of a concealed weapons permit cannot be required to present that permit to anyone other than a law enforcement officer – not the library director, library security or library staff.

Violation of this law is exempt from sovereign immunity; a library board in violation can be sued and be required to pay reasonable attorney costs and fees for expert witnesses.

However, if library staff or patrons feel threatened, library employees should not hesitate to take appropriate action as specified in local policy. If the staff or a member of the public feels that a reasonable threat exists, employees should have the authority to contact the director (or other supervisor) if possible – and should be empowered to contact the police if the director is unavailable and it is appropriate. The police will decide what, if anything, needs to be done about the situation and what charges, if any, should be filed.

There are several statutes in Kentucky relating to behavior in public. Kentucky has laws against “wanton endangerment” (KRS 508.060-508.070) and “terroristic threatening” (KRS 508.075-508.080). The definition of each is found in statute and may apply, depending upon the circumstances.

Library Boards may adopt a policy which contains a request to the public that they not bring deadly weapons into the library but the director, staff or board cannot enforce it and should not make those carrying firearms feel unwelcome in the library facility.

For examples of policies see:

<http://kdla.ky.gov/librarians/librarypolicies/Pages/LibraryOperationsPolicies.aspx>

This is not legal advice and I am not an attorney. If you feel you need legal advice you should consult an attorney. Terry L. Manuel, Branch Manager, Program Development, Kentucky Department for Libraries & Archives. For more information, contact: Terry.Manuel@ky.gov or 502-564-8300 ext. 269.