STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020

Introduced by Senators MacGregor, Hollier and Johnson

ENROLLED SENATE BILL No. 611

AN ACT to amend 1982 PA 455, entitled "An act to provide for the confidentiality of certain library records; and to provide for the selection and use of library materials," by amending the title and sections 2, 3, and 4 (MCL 397.602, 397.603, and 397.604), section 2 as amended by 1999 PA 37 and section 3 as amended by 1996 PA 188.

The People of the State of Michigan enact:

TITLE

An act to provide for the confidentiality of certain library records; to provide for certain exceptions to the confidentiality of those library records; to provide for the selection and use of library materials; and to provide remedies.

Sec. 2. As used in this act:

(a) "Computer" means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations, including logical, arithmetic, or memory functions with or on computer data or a computer program, and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network.

(b) "Computer network" means the interconnection of hardwire or wireless communication lines with a computer through remote terminals, or a complex consisting of 2 or more interconnected computers.

(c) "Computer program" means a series of internal or external instructions communicated in a form acceptable to a computer that directs the functioning of a computer, computer system, or computer network in a manner designed to provide or produce products or results from the computer, computer system, or computer network.

(d) "Computer system" means a set of related, connected or unconnected, computer equipment, devices, software, or hardware.

(e) "Crime" means that term as defined in section 5 of the Michigan penal code, 1931 PA 328, MCL 750.5.

(f) "Device" includes, but is not limited to, an electronic, magnetic, electrochemical, biochemical, hydraulic, optical, or organic object that performs input, output, or storage functions by the manipulation of electronic, magnetic, or other impulses.

(g) "Harmful to minors" means that term as defined in section 4 of 1978 PA 33, MCL 722.674.

(h) "Internet" means that term as defined in 47 USC 230.

(i) "Law enforcement officer" means an individual licensed under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

(j) "Library" means a library that is established by this state or by 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, or a college or university, or a private library open to the public.

(k) "Library record" means a document, record, or other method of storing information retained by a library that contains information that personally identifies a library patron, including the patron's name, address, or telephone number, or that identifies a person as having requested or obtained specific materials from a library. Library record does not include either of the following:

(*i*) Nonidentifying material that may be retained for the purpose of studying or evaluating the circulation of library materials in general.

(*ii*) Recorded video surveillance images made solely for security purposes that do not include images of any activity or any other document or record that identifies a person as having requested or lawfully obtained specific services, materials, or information resources from a library.

(*l*) "Minor" means an individual who is less than 18 years of age.

(m) "Obscene" means that term as defined in section 2 of 1984 PA 343, MCL 752.362.

(n) "Sexually explicit matter" means that term as defined in section 3 of 1978 PA 33, MCL 722.673.

(o) "Terminal" means a device used to access the internet or a computer, computer program, computer network, or computer system.

Sec. 3. (1) A library record is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) A library or an employee or agent of a library shall not release or disclose a library record or portion of a library record to a person without the written consent of the person liable for payment for or return of the materials identified in that library record, unless 1 of the following applies:

(a) A court has ordered the release or disclosure after giving the affected library notice of the request and an opportunity to be heard on the request.

(b) The release or disclosure is permitted under subsection (5).

(3) The procedure and form of giving the written consent described in subsection (2) may be determined by the library.

(4) A library may appear and be represented by counsel at a hearing described in subsection (2)(a).

(5) A library or an employee or agent of a library may disclose library records without a court order or the written consent described in subsection (2) under either of the following circumstances:

(a) The library or an employee or agent of the library may report information about the delinquent account of a patron who obtains materials from the library to a collection agency under contract with the library. The library or an employee or agent of the library shall provide the collection agency with only the library records necessary to seek the return of overdue or stolen materials or to collect fines from the patron.

(b) The library or an employee or agent of the library may disclose library records to another library or library cooperative for the purpose of conducting interlibrary loans. The library records must be limited to those required for providing interlibrary loans.

(6) This section does not prohibit an employee or agent of a library from providing a sworn statement or testimony to a law enforcement officer based solely on the personal knowledge of the employee or agent of the library regarding a crime alleged to have occurred at the library.

(7) As used in this section and section 4, "employee or agent" includes an employee of a library, a member of the governing body of a library, an individual who is specifically designated as a volunteer and who is acting solely on behalf of a library, and any other person who is lawfully performing services on behalf of a library under a written contract, including a collection agency.
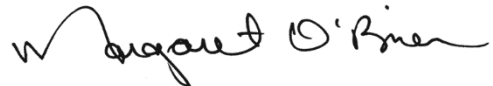

Sec. 4. (1) If a library or an employee or agent of a library violates section 3, the library is subject to liability to the person identified in a library record that is improperly released or disclosed. The person identified in the library record may bring a civil action against the library for actual damages or $250.00, whichever is greater, reasonable attorney fees, and the costs of bringing the action. A court also may grant equitable relief to a person under this subsection.

(2) If an employee or agent of a library knowingly violates section 3, the employee or agent is subject to liability to the person identified in a library record that is improperly released or disclosed. The person identified in the

library record may bring a civil action against the employee or agent for actual damages or $250.00, whichever is greater, reasonable attorney fees, and the costs of bringing the action. A court also may grant equitable relief to a person under this subsection.

(3) A civil action brought under this section by or on behalf of a person identified in a library record must be brought within 180 days after the date that the person first knew or had reason to know of the release or disclosure of the record giving rise to the civil action.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

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Secretary of the Senate

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Clerk of the House of Representatives

Approved_____

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Governor