



BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

DEC 01 1988

House Bill 5601 (Substitute H-1 as reported without amendment)

Sponsor: Representative Gerald H. Law

House Committee: Judiciary

Senate Committee: Judiciary

Date Completed: 11-2-88

RATIONALE

During the Congressional hearings on the nomination of Robert Bork to the United States Supreme Court, a Washington weekly obtained and published a list of videotapes rented under Bork's wife's account. Many people expressed a belief that this was an unwarranted invasion of privacy, and the incident prompted the introduction in Congress of a bill to protect the privacy of those who rent or buy videotapes. Many people believe that a person's choice in videos, records, and books should remain a private matter and should be protected explicitly in statute.

CONTENT

The bill would create a new act to protect a customer's privacy with respect to the purchase, rental, or borrowing of written materials, sound recordings, and video recordings. A retailer, lender, or renter of such items would be prohibited from disclosing information pertaining to a particular customer's purchase, rental, or borrowing unless the information was disclosed with the customer's written permission, under a court order, or to the extent reasonably necessary to collect past-due payments.

A violation of the bill would constitute a misdemeanor. Regardless of any criminal charges, an offender would be subject to civil damages in the amount of actual damages (including damages for emotional distress) or \$10,000, whichever was greater, plus costs and reasonable attorneys fees.

FISCAL IMPACT

The bill would have an indeterminate impact on local units of government. Enforcement costs would depend on the number of violations.

ARGUMENTS

Supporting Argument

The bill would recognize that a person's choice in literature, music, and videos is a private matter, and should not be subject to public scrutiny. The bill would complement the Library Privacy Act, which exempts library records from disclosure under the Freedom of Information Act and prohibits disclosure without a court order or the individual's consent.

Legislative Analyst: P. Affholter

Fiscal Analyst: B. Bowerman

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

H.B. 5601 (H-1) (11-2-88)