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Senate Bill 611 (as introduced 10-29-19)
Sponsor: Senator Peter MacGregor
Committee: Judiciary and Public Safety

Date Completed: 3-11-20

CONTENT

The bill would amend the Library Privacy Act to do the following:

- Allow a library to disclose library records without a court order or written consent under certain circumstances, including upon request by a law enforcement officer who was investigating alleged criminal activity at the library; for reporting information about delinquent account of a patron who borrowed or used the library's materials, resources, or services to a collection agency under contract with the library; and for the purpose of conducting an interlibrary loan.**
- Specify that if a violation of the Act's disclosure provisions were committed by an employee of the library acting in the scope of his or her duties, the person identified could bring a civil action against the library only, and the damages, fees, and costs would have to be assessed against the library and could not be assessed against the employee personally.**
- Require a civil action to be brought within 180 days of the release or disclosure.**

Under the Act, a library record is not subject to the disclosure requirements of the Freedom of Information Act.

A library or an employee or agency of a library may not release or disclose a library record or a portion of a 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 ordered by a court after giving the affected library notice of the request and an opportunity to be heard on the request.

Under the bill, a library or an employee or agency of a library could not release or disclose a library record or a portion of a 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 one of the following exceptions applied:

- A court had ordered the release or disclosure after giving the affected library notice of the request and an opportunity to be heard on the request.
- The release or disclosure was permitted as described below.

A library could disclose its records without a court order or written consent under any of the following circumstances:

- Upon the request of a law enforcement officer who was investigating criminal activity alleged to have occurred at the library or if the library requested the assistance of a law

- enforcement officer regarding criminal activity alleged to have occurred at the library, the library could disclose to the law enforcement officer any record pertinent to the alleged criminal activity; the library would not be required to release records and could require the law enforcement officer to obtain written consent or a court order.
- The library could report information about delinquent account of a patron who borrowed or used the library's materials, resources, or services to a collection agency under contract with the library; the library would have to provide only the records necessary to return overdue or stolen materials to collect fines.
- The library could disclose records to other libraries or to library cooperatives for the purpose of conducting interlibrary loans; the library records would have to be limited to those required for providing interlibrary loans.

The Act specifies that a library, or an agent or employee of a library that violates the Act's disclosure provisions is subject to liability to the person identified in a record that is improperly released or disclosed. The person identified may bring a civil action against the library or agent for actual damages or \$250, whichever is greater; reasonable attorney fees; and the cost of bringing the action. The bill would eliminate the reference to "employee" in this provision.

Under the bill, if a violation were committed by an employee of the library acting in the scope of his or her duties, the person identified could bring the action against the library only, and the damages, fees, and costs would have to be assessed against the library and could not be assessed against the employee personally. A civil action would have to be brought within 180 days of the release or disclosure.

MCL 397.602-397.604

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Ryan Bergan
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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.