



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 611 (as enacted)
Sponsor: Senator Peter MacGregor
Senate Committee: Judiciary and Public Safety
House Committee: Judiciary

PUBLIC ACT 315 of 2020

Date Completed: 3-23-21

CONTENT

The bill amends the Library Privacy Act to do the following:

- Allow a library or an employee or agent of a library to disclose library records without a court order or written consent under certain circumstances, including to report information about the delinquent account of a patron who obtains materials from the library to a collection agency or to disclose records to another library or a library cooperative for the purpose of conducting an interlibrary loan.**
- Allow a court to grant equitable relief to a person who brought a civil action against a library or an employee or agent of a library for a violation of the Act's disclosure provisions.**
- Specify that an employee or agent of a library who knowingly violates the Act is subject to liability to a person identified in a library record that is released or disclosed improperly; and allow the person to bring a civil action against the employee or agent if he or she knowingly violates the Act.**
- Require a civil action to be brought within 180 days of the release or disclosure.**

The bill will take effect on March 29, 2021.

Under Section 3 of 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.

"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. The term does not include nonidentifying material that may be retained for the purpose of studying or evaluating the circulation of library materials in general. Under the bill, the term also does not include 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.

Under the bill, 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 one of the following exceptions applies:

- 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.
- The release or disclosure is permitted as described below.

A library or an employee or agent of a library may disclose its records without a court order or written consent under either of the following circumstances:

- The library or an employee or agent of a 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 a library must provide the collection agency only the records necessary to seek the return of overdue or stolen materials or to collect fines from the patron.
- The library or an employee or agent of a library may disclose records to another library or to library cooperatives for the purpose of conducting interlibrary loans; the library records must be limited to those required for providing interlibrary loans.

"Law enforcement officer" means an individual licensed under the Michigan Commission on Law Enforcement Standards Act.

The bill 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 regarding a crime alleged to have occurred at the library.

"Employee or agent" includes an employee of a library, a member of the governing body of a library, an individual who was specifically designated as a volunteer and who was acting solely on behalf of a library, and any other person who was lawfully performing services on behalf of a library under written contract, including a collection agency.

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. Under the bill, a court also may grant equitable relief to a person described above.

Additionally, if an employee or agent of a library knowingly violates Section 3 of the Act, he or she may be subject to liability to the person identified in a library record that is released or disclosed improperly. The person identified in the library record may bring a civil action against the employee or agent for actual damages or \$250, whichever is greater, reasonable attorney fees, and the costs of bringing the action. A court also may grant equitable relief to a person described above.

A civil action brought against the employee or agent by or on behalf of a person identified in a library record must be brought within 180 days after the date the person first knew or had reason to know of the release or disclosure of the record giving rise to the civil action.

FISCAL IMPACT

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

Fiscal Analyst: Ryan Bergan
Michael Siracuse

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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.