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BILL



ANALYSIS

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House Bill 4827 (as reported without amendment)
Sponsor: Representative Harold S. Voorhees
House Committee: Local Government
Senate Committee: Government Operations

Date Completed: 4-22-96

RATIONALE

Under the Library Privacy Act, a library or library employee cannot disclose a library record without the written consent of the person identified in the record, except as ordered by a court. A library or library employee who violates this prohibition is liable to the person identified in the record for actual damages or \$250, whichever is greater, plus attorney fees and expenses. These provisions were enacted in 1982 to address concerns about the extent of a borrower's right to privacy--concerns that apparently arose from allegations that police were using library circulation records to establish that persons accused of crimes had borrowed books that detailed the methods of the crimes. It appears now, however, that the Act is impeding the ability of libraries to retrieve overdue books. Although a library may disclose the fact that a book is out, the library cannot disclose its title to a third person--such as a parent--who could help locate the book and return it to the library. As a result, libraries evidently have a difficult and costly time trying to get books back, lose fine revenue, and end up having to replace unreturned material. This also means that a library cannot tell a parent what materials his or her child has checked out, even though parents typically sign a statement accepting responsibility for material their children borrow.

CONTENT

The bill would amend the Library Privacy Act to provide that a library, or employee or agent of the library, could not release or disclose a library record to any person without the written consent of the person liable for payment for, or return of, the materials identified in the record.

MCL 397.603

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would help libraries retrieve overdue books by revising the consent requirement under the Act's nondisclosure provisions. Currently, libraries are prohibited from disclosing even a book's title to anyone without the borrower's consent. A school library, for example, may inform a parent that his or her child has a book out, but the library cannot reveal the title of the book--information that obviously would help the parent to locate the book and return it to the library. As a result, libraries must spend considerable time and money trying to retrieve books, or having to replace material that is never returned. Libraries also lose fine revenue that they otherwise could collect, and library patrons are denied the opportunity to use the material that someone else fails to return. While the bill would make a limited exception to the Act's privacy requirements, the law otherwise would remain intact and continue to protect people from the type of "fishing expeditions" by investigators that led to its enactment, as well as preserve people's right to avail themselves of the resources of a library without fear of how others might interpret their choice of reading matter.

Response: To safeguard the protection of library users' privacy, disclosure to anyone other than the borrower should be limited to overdue material.

Supporting Argument

It seems only right that parents who are ultimately responsible for the books and other materials that

their children borrow from libraries should have access to their children's library records. Currently, that is not the case. If a child uses his or her own card, information related to that card can be released only with the written consent of the child. Parents ought to guide their children's reading habits and help develop their values. Parents have the right to know their children's library records simply as a matter of family administration.

Legislative Analyst: S. Margules

FISCAL IMPACT

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

Fiscal Analyst: B. Bowerman

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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.