TITLE

An act to provide for the confidentiality of certain library records; ~~and~~ **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 1931 PA 328, MCL 750.5.**

**(f)**~~(e)~~ “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)**~~(f)~~ “Harmful to minors” means that term as ~~it is~~ defined in section 4 of 1978 PA 33, MCL 722.674.

**(h)**~~(g)~~ “Internet” means that term as defined in ~~section 230 of title II of the communications act of 1934, chapter 652, 110 Stat. 137,~~ 47 ~~U.S.C.~~ **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 28.614.**

**(j)**~~(h)~~ “Library” ~~includes~~ **means** a library that is established by ~~the~~ **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 ~~any~~ **a** private library open to the public.

**(k)**~~(i)~~ “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** ~~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)**~~(j)~~ “Minor” means an individual who is less than 18 years of age.

**(m)**~~(k)~~ “Obscene” means that term as ~~it is~~ defined in section 2 of 1984 PA 343, MCL 752.362.

**(n)**~~(l)~~ “Sexually explicit matter” means that term as ~~it is~~ defined in section 3 of 1978 PA 33, MCL 722.673.

**(o)**~~(m)~~ “Terminal” means a device used to access the internet or a computer, computer program, computer network, or computer system.

Sec. 3. (1) ~~Except as provided in subsection (2), a~~ **A** library record is not subject to ~~the~~ disclosure ~~requirements of~~ **under** the freedom of information act, ~~Act No. 442 of the Public Acts of~~ **442 PA** 1976, ~~being sections~~ **MCL** 15.231 to 15.246**.** ~~of the Michigan Compiled Laws.~~

(2) ~~Unless ordered by a court after giving the affected library notice of the request and an opportunity to be heard on the request, a~~ **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 exceptions 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 of 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~~ **subdivision** (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 any 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.**

**(c) The library or an employee or agent of the library may disclose library records to a law enforcement officer if the library records include information identifying a suspect, witness, or victim of a crime and the law enforcement officer signs a form attesting to the existence of exigent circumstances that make it impractical to secure a court order and acknowledging receipt of the library records under this subdivision.**

**(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, “employee or agent of a library” includes an employee of the library, a member of the governing body of the library, an individual who is specifically designated as a volunteer and who is acting solely on behalf of the library, and any other person who is lawfully performing services on behalf of the library under a written contract.**

Sec. 4. **(1)** ~~A~~ **If a** library or an **employee or** agent ~~or employee~~ of a library ~~which~~ violates section 3**, the library** ~~shall be liable~~ **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 under this section must be brought within 180 days of the release or disclosure.**