

## THE LIBRARY PRIVACY ACT Act 455 of 1982

AN ACT to provide for the confidentiality of certain library records; and to provide for the selection and use of library materials.

**History:** 1982, Act 455, Eff. Mar. 30, 1983.

*The People of the State of Michigan enact:*

### **397.601 Short title.**

Sec. 1. This act shall be known and may be cited as “the library privacy act”.

**History:** 1982, Act 455, Eff. Mar. 30, 1983.

### **397.602 Definitions.**

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 hardware 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) “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.

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

(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. 230.

(h) “Library” includes a library that is established by the state; 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; a college or university; or any private library open to the public.

(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 nonidentifying material that may be retained for the purpose of studying or evaluating the circulation of library materials in general.

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

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

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

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

**History:** 1982, Act 455, Eff. Mar. 30, 1983;—Am. 1998, Act 7, Imd. Eff. Feb. 6, 1998;—Am. 1999, Act 37, Eff. Aug. 1, 1999.

### **397.603 Library record not subject to disclosure requirements; release or disclosure of library record without consent prohibited; exception; procedure and form of written consent; hearing.**

Sec. 3. (1) Except as provided in subsection (2), a library record is not subject to the disclosure requirements of the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 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 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.

(3) The procedure and form of giving 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 (2).

**History:** 1982, Act 455, Eff. Mar. 30, 1983;—Am. 1996, Act 188, Imd. Eff. May 8, 1996.

### **397.604 Violation of MCL 397.603; liability; civil action; damages; attorney fees and costs.**

Sec. 4. A library or an agent or employee of a library which violates section 3 shall be liable to the person identified in a record that is improperly released or disclosed. The person identified may bring a civil action for actual damages or \$250.00, whichever is greater; reasonable attorney fees; and the costs of bringing the action.

**History:** 1982, Act 455, Eff. Mar. 30, 1983.

### **397.605 Selection and use of library materials.**

Sec. 5. (1) Except as otherwise provided by statute or by a regulation adopted by the governing body of the library, the selection of library materials for inclusion in a library's collection shall be determined only by an employee of the library.

(2) Except as otherwise provided by law or by a regulation adopted by the governing body of the library, the use of library materials shall be determined only by an employee of the library.

**History:** 1982, Act 455, Eff. Mar. 30, 1983.

### **397.606 Restriction of internet access to minors; immunity from liability; exceptions.**

Sec. 6. (1) If a library offers use of the internet or a computer, computer program, computer network, or computer system to the public, the governing body of that library shall adopt and require enforcement of a policy that restricts access to minors by providing the use of the internet or a computer, computer program, computer network, or computer system in 1 of the following ways:

(a) Both of the following:

(i) By making available, to individuals of any age, 1 or more terminals that are restricted from receiving obscene matter or sexually explicit matter that is harmful to minors.

(ii) By reserving, to individuals 18 years of age or older or minors who are accompanied by their parent or guardian, 1 or more terminals that are not restricted from receiving any material.

(b) By utilizing a system or method that is designed to prevent a minor from viewing obscene matter or sexually explicit matter that is harmful to minors.

(2) A governing body of a library, member of a governing body of a library, library, or an agent or employee of a governing body of a library or library, is immune from liability in a civil action as provided in section 7 of the revised judicature act of 1961, 1961 PA 236, MCL 691.1407.

(3) This section does not apply to a library established by a community college district, a college or university, or a private library open to the public.

**History:** Add. 1999, Act 37, Eff. Aug. 1, 1999;—Am. 2000, Act 212, Eff. Oct. 1, 2000.