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BILL ANALYSIS

Senate Fiscal Agency

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House Bill 4694 (as reported without amendment)
Sponsor: Representative Gerald H. Law
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 10-10-89

RATIONALE

Under Public Act 378 of 1988, it is a misdemeanor for a person in the business of selling or renting books, videos, or sound recordings to disclose information concerning the sale or rental of those materials that identifies the customer. There is no provision in the Act, however, that explicitly grants individuals the right to collect damages for harm done when details on a person's rentals or purchases are disclosed. Some people believe that, if the Act provided for civil remedies, those harmed by disclosures could obtain some recompense and the deterrent effect of the Act would be less dependant on the threat of criminal conviction.

CONTENT

The bill would amend Public Act 378 of 1988 to establish civil remedies for violations of the Act. Regardless of any criminal prosecution, a violator would be liable for civil damages to the customer identified in the prohibited disclosure. The customer could recover \$5,000 or actual damages (including damages for emotional distress), whichever was greater, plus costs and reasonable attorney's fees.

Proposed MCL 445.1715

FISCAL IMPACT

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

ARGUMENTS**Supporting Argument**

By providing for civil remedies, the bill would strengthen the law protecting privacy in rentals of videos, recordings, and books. A person harmed by disclosure could sue for and recover damages directly from the violator regardless of whether the violator was prosecuted or convicted. In addition, any deterrent effect that the Act might have would be enhanced because punishment no longer would be dependent on a prosecutor's priorities and criminal standards of proof.

Opposing Argument

The bill would exact a high price for what might be an unwitting violation. Any provision allowing for civil damages should be conditioned on a knowing violation.

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H.B. 4694 (10-10-89)