

SENATE BILL NO. 332

INTRODUCED BY TOWE, CRIPPEN, ADDY

BY REQUEST OF THE SENATE JUDICIARY COMMITTEE

IN THE SENATE

February 6, 1985	Introduced and referred to Committee on Judiciary.
February 20, 1985	Committee recommend bill do pass as amended. Report adopted.
February 21, 1985	Bill printed and placed on members' desks.
February 22, 1985	Second reading, do pass.
February 23, 1985	Considered correctly engrossed.
February 25, 1985	Third reading, passed. Ayes, 45; Noes, 3.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Judiciary.
March 21, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 23, 1985	Second reading, concurred in.
March 26, 1985	Third reading, concurred in.
	Returned to Senate with amendments.

IN THE SENATE

March 26, 1985

Received from House.

April 2, 1985

Second reading, amendments
concurrent in.

April 4, 1985

Third reading, amendments
concurrent in.
Ayes, 50; Noes, 0.

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. 332
 2 INTRODUCED BY *Sen. G. Kelly*
 3 BY REQUEST OF THE SENATE JUDICIARY COMMITTEE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR
 6 CONFIDENTIALITY OF LIBRARY RECORDS; AMENDING SECTIONS
 7 2-6-101 AND 2-6-102, MCA."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. Section 1. Short title. [This act] may
 11 be cited as the "Montana Library Records Confidentiality
 12 Act".

13 NEW SECTION. Section 2. Definitions. As used in
 14 [section 3], the following definitions apply:

15 (1) "Library" means a library that is established by
 16 the state, a county, city, town, school district, or a
 17 combination of those units of government, a college or
 18 university, or any private library open to the public.

19 (2) "Library records" means any document, record, or
 20 any other method of storing information retained, received,
 21 or generated by a library that identifies a person as having
 22 requested, used, or borrowed library material or other
 23 records identifying the names of library users. Library
 24 records does not include nonidentifying material that may be
 25 retained for the purpose of studying or evaluating the

1 circulation of library materials in general.

2 NEW SECTION. Section 3. Nondisclosure of library
 3 records. (1) No person may release or disclose a library
 4 record or portion of a library record to any person except
 5 in response to:

6 (a) a written request of the person identified in that
 7 record, according to procedures and forms giving written
 8 consent as determined by the library; or

9 (b) an order issued by a court of competent
 10 jurisdiction, upon a finding that the disclosure of such
 11 record is necessary because the merits of public disclosure
 12 clearly exceed the demand for individual privacy.

13 (2) A library is not prevented from publishing or
 14 making available to the public reasonable statistical
 15 reports regarding library registration and book circulation
 16 if those reports are presented so that no individual is
 17 identified therein.

18 Section 4. Section 2-6-101, MCA, is amended to read:
 19 "2-6-101. Definitions. (1) Writings are of two kinds:

20 (a) public; and
 21 (b) private.

22 (2) Public writings are:
 23 (a) the written acts or records of the acts of the
 24 sovereign authority, of official bodies and tribunals, and
 25 of public officers, legislative, judicial, and executive,



1 whether of this state, of the United States, of a sister
2 state, or of a foreign country;

3 (b) public records, kept in this state, of private
4 writings, except as provided in [section 3].

5 (3) Public writings are divided into four classes:

6 (a) laws;

7 (b) judicial records;

8 (c) other official documents;

9 (d) public records, kept in this state, of private
10 writings.

11 (4) All other writings are private."

12 Section 5. Section 2-6-102, MCA, is amended to read:

13 "2-6-102. Citizens entitled to inspect and copy public
14 writings. (1) Every citizen has a right to inspect and take
15 a copy of any public writings of this state, except as
16 provided in [section 3] and as otherwise expressly provided
17 by statute.

18 (2) Every public officer having the custody of a
19 public writing which a citizen has a right to inspect is
20 bound to give him on demand a certified copy of it, on
21 payment of the legal fees therefor, and such copy is
22 admissible as evidence in like cases and with like effect as
23 the original writing."

24 NEW SECTION. Section 6. Penalty. Any person who
25 violates [section 3] is guilty of a misdemeanor and is

1 liable to the person identified in a record that is
2 improperly released or disclosed. The person identified may
3 bring a civil action for actual damages or \$100, whichever
4 is greater, reasonable attorney fees, and the costs of
5 bringing the action.

6 NEW SECTION. Section 7. Codification instruction.
7 Sections 1 through 3 and 6 are intended to be codified as an
8 integral part of Title 22, chapter 1, and the provisions of
9 Title 22, chapter 1, apply to sections 1 through 3 and 6.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

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requested, used, or borrowed library material or other
records identifying the names of library users. Library
records does not include nonidentifying material that may be
retained for the purpose of studying or evaluating the

circulation of library materials in general.

NEW SECTION. Section 3. Nondisclosure of library
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record or portion of a library record to any person except
in response to:

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jurisdiction, upon a finding that the disclosure of such
record is necessary because the merits of public disclosure
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(2) A library is not prevented from publishing or
making available to the public reasonable statistical
reports regarding library registration and book circulation
if those reports are presented so that no individual is
identified therein.

(3) LIBRARY RECORDS MAY BE DISCLOSED TO THE EXTENT
NECESSARY TO RETURN OVERDUE OR STOLEN MATERIALS OR COLLECT
FINES.

Section 4. Section 2-6-101, MCA, is amended to read:
"2-6-101. Definitions. (1) Writings are of two kinds:

(a) public; and

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1 (a) the written acts or records of the acts of the
2 sovereign authority, of official bodies and tribunals, and
3 of public officers, legislative, judicial, and executive,
4 whether of this state, of the United States, of a sister
5 state, or of a foreign country;

6 (b) public records, kept in this state, of private
7 writings, except as provided in [section 3].

8 (3) Public writings are divided into four classes:

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13 writings.

14 (4) All other writings are private."

15 Section 5. Section 2-6-102, MCA, is amended to read:

16 "2-6-102. Citizens entitled to inspect and copy public
17 writings. (1) Every citizen has a right to inspect and take
18 a copy of any public writings of this state, except as
19 provided in [section 3] and as otherwise expressly provided
20 by statute.

21 (2) Every public officer having the custody of a
22 public writing which a citizen has a right to inspect is
23 bound to give him on demand a certified copy of it, on
24 payment of the legal fees therefor, and such copy is
25 admissible as evidence in like cases and with like effect as

1 the original writing."

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6 bring a civil action for actual damages or \$100, whichever
7 is greater, reasonable attorney fees, and the costs of
8 bringing the action.

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NEW SECTION. Section 3. Nondisclosure of library records. (1) No person may release or disclose a library record or portion of a library record to any person except in response to:

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(b) an order issued by a court of competent jurisdiction, upon a finding that the disclosure of such record is necessary because the merits of public disclosure clearly exceed the demand for individual privacy.

(2) A library is not prevented from publishing or making available to the public reasonable statistical reports regarding library registration and book circulation if those reports are presented so that no individual is identified therein.

(3) LIBRARY RECORDS MAY BE DISCLOSED TO THE EXTENT NECESSARY TO RETURN OVERDUE OR STOLEN MATERIALS OR COLLECT FINES.

Section 4. Section 2-6-101, MCA, is amended to read:

"2-6-101. Definitions. (1) Writings are of two kinds:

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1 (a) the written acts or records of the acts of the
2 sovereign authority, of official bodies and tribunals, and
3 of public officers, legislative, judicial, and executive,
4 whether of this state, of the United States, of a sister
5 state, or of a foreign country;

6 (b) public records, kept in this state, of private
7 writings, except as provided in [section 3].

8 (3) Public writings are divided into four classes:

9 (a) laws;

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13 writings.

14 (4) All other writings are private."

15 Section 5. Section 2-6-102, MCA, is amended to read:

16 "2-6-102. Citizens entitled to inspect and copy public
17 writings. (1) Every citizen has a right to inspect and take
18 a copy of any public writings of this state, except as
19 provided in [section 3] and as otherwise expressly provided
20 by statute.

21 (2) Every public officer having the custody of a
22 public writing which a citizen has a right to inspect is
23 bound to give him on demand a certified copy of it, on
24 payment of the legal fees therefor, and such copy is
25 admissible as evidence in like cases and with like effect as

1 the original writing."

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3 violates [section 3] is guilty of a misdemeanor and is
4 liable to the person identified in a record that is
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6 bring a civil action for actual damages or \$100, whichever
7 is greater, reasonable attorney fees, and the costs of
8 bringing the action.

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10 Sections 1 through 3 and 6 are intended to be codified as an
11 integral part of Title 22, chapter 1, and the provisions of
12 Title 22, chapter 1, apply to sections 1 through 3 and 6.

-End-

STANDING COMMITTEE REPORT

HOUSE

March 21 19 85

MR. Speaker:

We, your committee on Judiciary

having had under consideration Senate Bill No. 332

Third reading copy (Blue color)

LIBRARY CONFIDENTIALITY ACT

Respectfully report as follows: That Senate Bill No. 332 be amended as follows:

1. Page 1, line 23.
Following: "names"
Insert: "or other personal identifiers"

2. Page 2, line 1.
Following: "general"
Insert: "or records that are not retained or retrieved by personal identifier"

3. Page 4, line 7.
Following: "greater"
Strike: ", reasonable"
Insert: ". Reasonable"
Strike: ", "

4. Page 4, line 8.
Following: "action"
Insert: "may be awarded to the prevailing party"

~~XXXXXX~~
AND AS AMENDED,
BE CONCURRED IN

30A SL 3/21

Tom Hannah
REP. TOM HANNAH Chairman.

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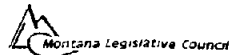
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REFERENCE BILL



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8 bring a civil action for actual damages or \$100, whichever

9 is greater,--~~reasonable.~~ REASONABLE attorney fees, and the

10 costs of bringing the action MAY BE AWARDED TO THE

11 PREVAILING PARTY.

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