Sixty-eighth Legislative Assembly of North Dakota

HOUSE BILL NO. 1205

Introduced by

Representatives Lefor, Steiner

1 A BILL for an Act to create and enact a new section to chapter 12.1-27.1 of the North Dakota

2 Century Code, relating to prohibiting public libraries from maintaining sexually explicit books; to

3 amend and reenact section 12.1-27.1-03.1 of the North Dakota Century Code, relating to

4 objectionable materials or performances; and to provide for application.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 SECTION 1. AMENDMENT. Section 12.1-27.1-03.1 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 12.1-27.1-03.1. Objectionable materials or performance - Display to minors -

9 **Definitions - Penalty.**

 A person is guilty of a class B misdemeanor if he willfully displays at newsstands or any other business establishment frequented by minors, or where minors are or may be invited as a part of the general public, any photograph, book, paperback book, pamphlet, or magazine, the exposed cover or available content of which exploits, is devoted to, or is principally made up of depictions of nude or partially denuded human figures posed or presented in a manner to exploit sex, lust, or perversion for commercial gain.

- 17 2. As used in this section:
- 18a."Nude or partially denuded human figures" means less than completely and19opaquely covered human genitals, pubic regions, female breasts or a female20breast, if the breast or breasts are exposed below a point immediately above the21top of the areola, or human buttocks; and includes human male genitals in a22discernibly turgid state even if completely and opaquely covered.
- b. "Where minors are or may be invited as a part of the general public" includes any
 public roadway or public walkway.

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1		C.	The	above shall<u>may</u> not be construed to include a bona fide school, college,		
2			univ	ersity, museum , public library , or art gallery.		
3	SECTION 2. A new section to chapter 12.1-27.1 of the North Dakota Century Code is					
4	created and enacted as follows:					
5	Public libraries prohibited from maintaining or promoting certain books.					
6	<u>1.</u>	<u>As u</u>	sed i	n this section:		
7		<u>a.</u>	<u>"Exp</u>	olicit sexual material" does not include works of art that, when taken as a		
8			<u>who</u>	le, have serious artistic significance, or works of anthropological significance,		
9			<u>or m</u>	naterials used in science courses, including materials used in biology,		
10			anat	tomy, physiology, or sexual education classes. The term means any pictorial,		
11			<u>thre</u>	e-dimensional, or visual depiction, including any photography, picture, or		
12			<u>com</u>	puter-generated image, showing:		
13			(1)	Human masturbation;		
14			<u>(2)</u>	Deviant sexual intercourse;		
15			<u>(3)</u>	Sexual intercourse;		
16			<u>(4)</u>	Direct physical stimulation of genitals;		
17			<u>(5)</u>	Sadomasochistic abuse;		
18			<u>(6)</u>	Postpubertal human genitals;		
19			(7)	Sexual preferences;		
20			<u>(8)</u>	Sexual activity:		
21			<u>(9)</u>	Sexual perversion;		
22		Ĺ	10)	Sex-based classifications;		
23		Ļ	<u>11)</u>	<u>Sexual identity; or</u>		
24		Ĺ	<u>12)</u>	Gender identity.		
25		<u>b.</u>	<u>"Pul</u>	olic library" means a library containing collections of books or periodicals for		
26			the g	general population to read, borrow, or refer to which is supported with funds		
27			<u>deriv</u>	ved from taxation.		
28	<u>2.</u>	<u>A public library may not maintain in its inventory or promote books that make as their</u>				
29		prima	<u>ary s</u>	ubject the study of explicit sexual material.		

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1	<u>3.</u>	An	individual who believes a public library is maintaining a book in violation of			
2	_	subsection 2 may submit a written request to the public library to remove the book				
3			n its inventory.			
4	<u>4.</u>	A public library shall remove the book requested for removal within thirty days of				
5	<u></u>	-	eiving the request.			
6	5.	By January 1, 2024, each public library shall develop a policy and process for				
7	<u>01</u>	reviewing library collections to ensure conformance with the requirements of this				
8		section. The policy must include a procedure:				
9		<u>a.</u>	For the development of a book collection that is appropriate for the age and			
10		<u>u.</u>	maturity levels of the individuals who may access the materials, and which is			
11			·			
			suitable for, and consistent with, the purpose of the library;			
12		<u>b.</u>	For the public library to receive and evaluate a request from an individual			
13			regarding the removal of one or more of the books in the library collection			
14			containing explicit sexual material; and			
15		<u>c.</u>	To periodically review the library collection to ensure the library collection does			
16			not contain explicit sexual material.			
17	17 SECTION 3. APPLICATION. This Act applies to any book inventory or collection maintained					
18	by a public library after March 31, 2024.					