

To the honorable members of the North Dakota House Judiciary Committee:

I am a librarian in the employ of the University of North Dakota, and a resident of District 43. Please note that I submit the following testimony as a private citizen, on my own time, with my own equipment, and that my opinions do not necessarily reflect those of UND or the North Dakota University System.

I write in opposition to House Bill #1205, which seeks to forbid public libraries from keeping depictions of nudity or sexual activity in their collections. I have numerous objections.

- 1) As a librarian, I believe every American has the right to choose for themselves what they wish to read. This bill infringes on that right to no good purpose.
- 2) In an age when anyone with access to a phone or computer can pull up pornographic material of any description in seconds, seeking to purge library collections of sexual material is pointless. The library is not where people go to indulge in that sort of thing.
- 3) Section 1(c) of the proposed bill specifies that the bill does not apply to a "school, college, university, museum or art gallery." But the definition of "public library" given in 2(1)(b) specifies that any library that offers access to the public and receives tax funds is included. I work at the Chester Fritz Library (CFL) on the University of North Dakota campus. CFL is part of a university, which means it is exempt.

But CFL also receives funds from state appropriations, and offers service to members of the general public. Anyone can walk in and consult CFL's collection. People who wish to check materials out from CFL can obtain a community borrower card.

Thus, as written, CFL is simultaneously exempt and NOT exempt, which is flatly contradictory. In order to be unambiguously exempt, CFL would need to stop allowing members of the public to consult the collection. There is no practical way to prevent members of the public who are not affiliated with UND from walking into the building. Doing so would require checking the IDs of everyone entering the building at all three entrances, which strikes me as both difficult, expensive, and pointless.

I believe that all or most of the other public universities and colleges in the state are in the same boat: they receive tax dollars and allow the public in. It would not surprise me if there are some school libraries in some of the smaller towns in North Dakota that fill dual roles as school and public libraries. If so, they too would suffer from this issue. As written, the exemption clause simply is not workable with the realities of libraries in the state.

- 4) Section 2 (2) states that "a public library may not maintain in its inventory or promote books that make as their primary subject the study of explicit sexual material." As an academic librarian, I have often met and assisted college students working on assigned papers examining pressing social issues. One topic I have seen students write on is the rise of digital pornography and its social effects. This bill would force us to remove materials supporting such academic study, and infringe on the academic freedom of both students and professors studying this issue.

5) Section 2 part (4) specifies that "a public library shall remove the book requested for removal within thirty days of receiving the request." It does not allow for any kind of evaluation process -- despite such a thing being referred to later. It does not provide any mechanism for a library to deny a spurious or borderline request. As written, the library is required to remove any book that anyone objects to. The requestor is not even required to give a reason for their request. As a matter of policy, this is badly written and opens the door to malicious actors submitting frivolous requests.

6) The bill is very likely an infringement of the First Amendment, and thus unconstitutional. Only a court could decide that for certain. But I, for one, would rather see state resources put to more fruitful uses than defending the constitutionality of a bill whose primary purpose appears to be controlling what people can read.

I urge the honorable members of the Judiciary Committee to oppose this bill.

Will Martin