

1 A BILL for an Act to create and enact a new subsection to section 12.1-27.1-01 and a new
 2 section to chapter 12.1-27.1 of the North Dakota Century Code, relating to the definition of a
 3 public library and required safety policies and technology protection measures; to amend and
 4 reenact subsection 5 of section 12.1-27.1-01, sections 12.1-27.1-03.1, and 12.1-27.1-11 of the
 5 North Dakota Century Code, relating to obscenity control; to provide a penalty; and to provide
 6 an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

8 **SECTION 1. AMENDMENT.** Subsection 5 of section 12.1-27.1-01 of the North Dakota
 9 Century Code is amended and reenacted as follows:

10 5. As used in this chapter, the terms "obscene material" and "obscene performance"
 11 mean material or a performance which:

- 12 a. Taken as a whole, the average person, applying contemporary North Dakota
 13 standards, would find predominantly appeals to a prurient interest;
- 14 b. Depicts or describes in a patently offensive manner sexual conduct, whether
 15 normal or perverted; and
- 16 c. Taken as a whole, the reasonable person would find lacking in serious literary,
 17 artistic, political, or scientific value.

18 Whether material or a performance is obscene must be judged with reference to
 19 ordinary reasonable adults, unless it appears from the character of the material or the
 20 circumstances of its dissemination that the material or performance is designed for
 21 minors or other specially susceptible audience, in which case the material or
 22 performance must be judged with reference to that type of audience.

23 **SECTION 2.** A new subsection to section 12.1-27.1-01 of the North Dakota Century Code is

24 created and enacted as follows:

1 As used in this chapter, the term "public library" means a library containing collections

2 of books or periodicals for the general population to read, borrow, or refer to which is

3 supported with funds derived from taxation.

4 **SECTION 3. AMENDMENT.** Section 12.1-27.1-03.1 of the North Dakota Century Code is

5 amended and reenacted as follows:

6 **12.1-27.1-03.1. Objectable materials or performance - Display to minors -**

7 **Definitions - Penalty.**

8 1. A person is guilty of a class B misdemeanor if the person willfully displays at

9 newsstands or any other business establishment frequented by minors, or where

10 minors are or may be invited as a part of the general public, any photograph, book,

11 paperback book, pamphlet, or magazine, the exposed cover or available content of

12 which either contains explicit sexual material that is harmful to minors or exploits, is

13 devoted to, or is principally made up of contains depictions or written descriptions of

14 nude or partially denuded human figures posed or presented in a manner to exploit

15 sex, lust, or perversion for commercial gain.

16 2. As used in this section:

17 a. "Explicit sexual material" means any written, pictorial, three-dimensional, or visual

18 depiction that is patently offensive, including any photography, picture, or

19 computer-generated image, showing or describing:

20 (1) Human masturbation;

21 (2) Deviant sexual intercourse;

22 (3) Sexual intercourse;

23 (4) Direct physical stimulation of genitals;

24 (5) Sadomasochistic abuse;

25 (6) Postpubertal human genitals;

26 (7) Sexual activity;

27 (8) Sexual perversion; or

28 (9) Sex-based classifications.

29 b. "Nude or partially denuded human figures" means less than completely and

30 opaquely covered human genitals, pubic regions, female breasts or a female

31 breast, if the breast or breasts are exposed below a point immediately above the

1 top of the areola, or human buttocks; and includes human male genitals in a
2 discernibly turgid state even if completely and opaquely covered.
3 b-c. "Where minors are or may be invited as a part of the general public" includes any
4 public roadway or public walkway.
5 e-d. The above shall may not be construed to include a bona fide school, college,
6 university, museum, public library, or art gallery.
7 **SECTION 4. AMENDMENT.** Section 12.1-27.1-11 of the North Dakota Century Code is
8 amended and reenacted as follows:
9 **12.1-27.1-11. Exceptions to criminal liability.**
10 Sections 12.1-27.1-01 and 12.1-27.1-03 shall not apply to the possession or distribution of
11 material in the course of law enforcement, judicial, or legislative activities; or to the possession
12 of material by a bona fide school, college, university, or museum; or public library for limited
13 access for educational research purposes carried on at such an institution by adults only.
14 Sections 12.1-27.1-01 and 12.1-27.1-03 shall also not apply to a person who is returning
15 material, found to be obscene, to the distributor or publisher initially delivering it to the person
16 returning it.
17 **SECTION 5.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is
18 created and enacted as follows:
19 **Safety policies and technology protection measures required - Report.**
20 1. A school district, state agency, or public library may offer digital or online library
21 database resources to students in kindergarten through twelfth grade if the person
22 providing the resources verifies all the resources comply with subsection 2.
23 2. Digital or online library database resources offered by a school district, state agency,
24 or public library to students in kindergarten through twelfth grade must have safety
25 policies and technology protection measures that:
26 a. Prohibit and prevent a user of the resource from sending, receiving, viewing, or
27 downloading materials constituting child sexual abuse material, an obscene
28 performance, or pornography; and
29 b. Filter or block access to pornography and child sexual abuse material.
30 3. Notwithstanding any contract provision, if a provider of digital or online library
31 resources fails to comply with subsection 2, the school district, state agency, or public

1 library shall withhold any further payments to the provider pending verification of
2 compliance.
3 4. If a provider of digital or online library database resources fails to timely verify the
4 provider is in compliance with the safety policies and requirements of subsection 2, the
5 school district, state agency, or public library shall consider the provider's act of
6 noncompliance a breach of contract.
7 5. A public school library and a public library shall submit an aggregate written report to
8 the attorney general no later than December first of each year regarding any issues
9 related to provider compliance with technology protection measures required by
10 subsection 2.
11 6. An employee of a school district, state agency, or public library is not exempt from
12 prosecution for willful indecent exposure of child sexual abuse material or pornography
13 to a minor.
14

SECTION 6. EFFECTIVE DATE. This Act is effective August 20, 2023.

FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2360

Sixty-eighth
Legislative Assembly
of North Dakota

Introduced by

Senators Boehm, Beard, Hogue, Paulson, Wobberma

Representative Kasper

1 A BILL for an Act to create and enact a new subsection to section 12.1-27.1-01 and a new
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 13 standards, would find predominantly appeals to a prurient interest;
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 15 normal or perverted; and
- 16 c. Taken as a whole, the reasonable person would find lacking in serious literary,
 17 artistic, political, or scientific value.

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 19 ordinary reasonable adults, unless it appears from the character of the material or the

20 circumstances of its dissemination that the material or performance is designed for
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 24 created and enacted as follows:

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2 of books or periodicals for the general population to read, borrow, or refer to which is

3 supported with funds derived from taxation.

4 **SECTION 3. AMENDMENT.** Section 12.1-27.1-03.1 of the North Dakota Century Code is

5 amended and reenacted as follows:

6 **12.1-27.1-03.1. Objectionable materials or performance - Display to minors -**

7 **Definitions - Penalty.**

8 1. A person is guilty of a class B misdemeanor if he/she person willfully displays at

9 newsstands or any other business establishment frequented by minors, or where

10 minors are or may be invited as a part of the general public, any photograph, book,

11 paperback book, pamphlet, or magazine, the exposed cover or available content of

12 which either contains explicit sexual material that is harmful to minors or exploits either:

13 a. ~~Contains explicit sexual material that is harmful to minors; or~~

14 b. ~~Exploits, is devoted to, or is principally made up of contains depictions or written~~

15 descriptions of nude or partially denuded human figures posed or presented in a

16 manner to exploit sex, lust, or perversion for commercial gain.

17 2. As used in this section:

18 a. "Explicit sexual material" means any written, pictorial, three-dimensional, or visual

19 depiction that is patently offensive, including any photograph, picture, or

20 computer-generated image, showing or describing:

21 (1) Human masturbation;

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30 b. "Nude or partially denuded human figures" means less than completely and

31 opaquely covered human genitals, pubic regions, female breasts or a female

1 breast, if the breast or breasts are exposed below a point immediately above the
2 top of the areola, or human buttocks; and includes human male genitals in a
3 discernibly turgid state even if completely and opaquely covered.
4 b-c. "Where minors are or may be invited as a part of the general public" includes any
5 public roadway ~~or~~ public walkway, ~~public library, or public school library.~~
6 e-d. The above shall may not be construed to include a ~~bona fide school, college,~~
7 university, museum, ~~public library,~~ or art gallery.
8 **SECTION 4. AMENDMENT.** Section 12.1-27.1-11 of the North Dakota Century Code is
9 amended and reenacted as follows:
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11 Sections 12.1-27.1-01 and 12.1-27.1-03 shall not apply to the possession or distribution of
12 material in the course of law enforcement, judicial, or legislative activities; or to the possession
13 of material by a ~~bona fide school, college, university, or museum, or public library for limited~~
14 access for educational research purposes carried on at such an institution by adults only.
15 Sections 12.1-27.1-01 and 12.1-27.1-03 shall also not apply to a person who is returning
16 material, found to be obscene, to the distributor or publisher initially delivering it to the person
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30 b. Filter or block access to pornography and child sexual abuse material.

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9 5. A public school library and a public library shall submit an aggregate written report to
10 the attorney general no later than December first of each year regarding any issues
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14 prosecution for willful indecent exposure of child sexual abuse material or pornography
15 to a minor.
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SECTION 6. EFFECTIVE DATE. This Act is effective August 20, 2023.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2360

Page 2, line 12, remove "either contains explicit sexual material that is harmful to minors or"
Page 2 line 12, overstrike "exploits" and insert immediately thereafter "either."

- a. Contains explicit sexual material that is harmful to minors: or
- b. Exploits"

Page 2, line 15, remove the overstrike over "for-commercial-gain"

Page 2, line 26, after the underscored semicolon insert "or"

Page 2, line 27, remove ".or"

Page 2, line 28, remove "(9) Sex-based classifications"

Page 3, line 4, overstrike "or" and insert immediately thereafter an underscored comma

Page 3, line 4, after "walkway" insert ", public library, or public school library"

Page 3, line 12, remove "or"

Page 3, line 12, remove the overstrike over ", or public library for limited"

Page 3, line 13, remove the overstrike over "access for educational research purposes carried-
on at such an institution by adults only"

Renumber accordingly

Senate bill 2360 is a bill to protect minors from exposure to Obscenity and Pornography whether written, pictorial or digital. The material handed out are links to much of the research presented today. Legislative council has produced an amended version and that is the version that we are presenting to you today the changes are small but not insignificant. The purpose of this legislation is to protect minors from pornography. The areas the legislation focuses on are schools and libraries where minors frequent. Our culture has become a culture where there are no bounds on pornographic material. Most of us have heard of the process to kill a frog without it knowing that it is being killed. You put it on a heating element, slowly raise the temperature and in a short while the frog is dead, and it did not even know it. The same thing is happening to our society with pornography and our minors.

The changes in this legislation remove boni-fide school and public libraries from code to protect minors from Obscenity/pornography. It used to be that libraries and schools were safe zones for minors in our towns and communities. This is no longer the case. At this point our schools and libraries are the safe zones for Activists, Groomers and pedophiles as the original language in code protects their ability to disseminate their doctrine and perversion on minors. A real event that happened in western North Dakota. There was a city council public hearing held due to pornography being disseminated in a public library and the opponents could not show or read the material from the books designed for minors as it was Obscene, yet it was in the local library and any activist, groomer or pedophile could get the book and either read it to a child or show it on site or off site to a child. I hear many defenses of free speech from those that are in opposition to this legislation. Our team has found open pornography/obscenity in no less than 40 North Dakota libraries, and they are not all large libraries. We have a list of those books; they are not all in every library investigated. We have time stamp material to validate this in case after this it has been pulled. I have said this before Pornography is not free speech in our minor accessible institutions. Do our schools and libraries have the usual blatant adult pornography in them. No, course not, is that book banning and censorship according to the opposition to this legislation yes, it is. So, we will ban/censor what the opponents of this legislation deem necessary but not obvious obscenity and pornography.

In this amended legislation Page 2 defines a public library and starts to more clearly define pornography. Obscenity and pornography have zero redeeming value in these arenas as an educational research purpose unless one is trying to push an unnatural, perverted and harmful ideological doctrine. I believe that is why we have biology and science courses of which this legislation does not affect. This issue is taken care of on page 2, line 24 and page 4 line 29 of this legislation. In this section LC legal has assured us that the word willful will protect our teachers, librarians and staff from prosecution for normal science/biology/health education. The next change is an addition of a new section to code. Sections 4 clearly defines a level of pornography and Section 6 will add a new section to code. Section 6 legislates protection for minors by adding safety policies and technological protection measures and will also call for a report. Why is this necessary the constitution gives us a bit of a look at this.

The following is from the US constitution

Article I Section 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

Grooming: The Research-backed Links Between Pornography and Child Sexual Abuse

- Pornography Feeds the Growing Appetites of Child Sexual Abusers
- Child Sexual Abusers Use Pornography to Create Plans of Action
- Child Sexual Abusers' Tastes for Pornographic Content Depicting Younger Performers Increase Over Time
- Abusers Point Children to Pornography as a Way to Groom and "Train" Their Victims
- Pornography Normalizes Deviant and Dangerous Sexual Behaviors
- Pornography Has Been Found to Be Connected to a Rise in Child-on-Child Harmful Sexual Behavior

Source:

<https://endsexualexploitation.org/articles/the-research-backed-connections-between-pornography-and-child-sexual-abuse/>

"In this day and age, you will never find a man who has sexually offended who is not deeply steeped in pornography prior to offending. So pornography is the common denominator among all sexual offenses."

Jon Uhler

Therapist with 30 years experience counseling both victims and perpetrators

Full interview:

<https://rumble.com/v27luo0-is-pedophilia-becoming-normalized-a-therapist-for-sexual-offenders-weighs-l.html>

Senate Bill 2360

SUMMARY OF RESEARCH AND TESTIMONY

Pornography is typically introduced in the context of a relationship: a peer or authority figure.¹ Now, public and school libraries are introducing obscenity/pornography designed for minors.

Pornography, like cocaine, is addictive, and impacts the brain in a similar way.² Long-term exposure causes a reduction in gray matter.³

A psychiatrist and trauma specialist stated that "pornography should be forbidden and better regulated, as it is violating... boundaries... in a similar way that direct sexual abuse on their body does."⁴

The American Library Association (ALA) believes that all individuals, regardless of age, should have access to any and all books.⁵ Their statement allows no exceptions for the known harms of pornography. The ALA even advises librarians how to fight back against parents who believe certain books are inappropriate for children.

Many books defended by the ALA have sexually explicit content, and these books are in at least 40 libraries across North Dakota.

Presenting sexually explicit material to children is considered child abuse, according to definitions provided for mandated reporters.⁶

A significant number of children have been affected by pornography, and viewing pornographic material greatly impacts their ability to learn.⁷

If sexual abuse requires the intervention of a trained mental health professional, why is it appropriate to have sexually explicit content in our libraries?

¹ Stringer D.J. 2018. Unwanted: How Sexual Brokenness Reveals Our Way to Healing. NavPress: Colorado Springs.

² Voon VM. 2014. Neural Correlates of Sexual Cue Reactivity in Individuals With and Without Compulsive Sexual Behaviors. PLOS ONE. PMID: PMC4094516.

³ Kühn S and Gallinat J. 2014. Brain Structure and Functional Connectivity Associated With Pornography Consumption. JAMA Psychiatry 71:827-834.

⁴ Giroux DC. 2021. Early Exposure to Pornography: A Form of Sexual Trauma. Retrieved from Journal of Psychiatry Reform: <https://journalofpsychiatryreform.com/2021/12/07/earlyexposure-to-pornography-a-form-of-sexual-trauma/>

⁵ American Library Association. <https://www.ala.org/advocacy/intfreedom/librarilybill/interpretations/minors>

⁶ North Dakota Department of Human Services. Mandated Reporters. Interactive Training. <https://mandatedreporter.pand.org/>

⁷ Beyens J, Vandembosch L, and Eggermont S. (2015). Early Adolescent Boys' exposure to Internet pornography: Relationships to pubertal timing, sensation seeking, and academic performance. The Journal of Early Adolescence, 20, 1-32.

**CHAPTER 12.1-27.1
OBSCENITY CONTROL**

12.1-27.1-01. Obscenity - Definitions - Dissemination - Classification of offenses.

1. A person is guilty of a class C felony if, knowing of its character, the person disseminates obscene material or if the person produces, transports, or sends obscene material with intent that it be disseminated.
2. A person is guilty of a class C felony if the person presents or directs an obscene performance for pecuniary gain or participates in any portion of a performance which contributes to the obscenity of the performance as a whole.
3. A person is guilty of a class C felony if the person, as owner or manager of an establishment licensed under section 5-02-01, permits an obscene performance in the establishment. A person is guilty of a class C felony if that person participates, whether or not for compensation, in an obscene performance in an establishment licensed under section 5-02-01.
4. a. In addition to the penalty provided in subsection 1, 2, or 3, any person who violates subsection 1, 2, or 3 in the course of a commercial or for-profit activity or transaction in which the offender had or shared ownership, control, managerial responsibility, or a financial interest other than wages is subject to the following penalty:
 - (1) For an individual, a fine not to exceed ten thousand dollars; or
 - (2) For a corporation, limited liability company, association, partnership, or other legal entity, a fine not to exceed twenty-five thousand dollars.
- b. In addition to the penalty provided in subsection 1, 2, or 3, the court shall impose the following penalty upon the conviction of a person or entity described in subdivision a for a second or subsequent offense under subsection 1, 2, or 3:
 - (1) For an individual, a fine not to exceed fifty thousand dollars; or
 - (2) For a corporation, limited liability company, association, partnership, or other legal entity, a fine not to exceed one hundred thousand dollars.

5. As used in this chapter, the terms "obscene material" and "obscene performance" mean material or a performance which:
 - a. Taken as a whole, the average person, applying contemporary North Dakota standards, would find predominantly appeals to a prurient interest;
 - b. Depicts or describes in a patently offensive manner sexual conduct, whether normal or perverted; and
 - c. Taken as a whole, the reasonable person would find lacking in serious literary, artistic, political, or scientific value.Whether material or a performance is obscene must be judged with reference to ordinary adults, unless it appears from the character of the material or the circumstances of its dissemination that the material or performance is designed for minors or other specially susceptible audience, in which case the material or performance must be judged with reference to that type of audience.

6. As used in this chapter, "disseminate" means to sell, lease, rent, advertise, broadcast, transmit, exhibit, or distribute for pecuniary gain. "Disseminate" includes any transmission of visual material shown on a cable television system, whether or not accompanied by a soundtrack, and any sound recording played on a cable television system.
7. As used in this chapter, the term "material" means any physical object, including, but not limited to, any type of book, sound recording, film, or picture used as a means of presenting or communicating information, knowledge, sensation, image, or emotion to or through a human being's receptive senses.
8. As used in this chapter, the term "patently offensive" means so offensive on its face as to affront the contemporary North Dakota standards of decency.
9. As used in this chapter, the term "performance" means any play, dance, or other exhibition presented before an audience.

figures posed or presented in a manner to exploit sex, lust, or perversion for **commercial gain**

- 2. As used in this section:
 - a. "Nude or partially denuded human figures" means less than completely and opaquely covered human genitals, pubic regions, female breasts or a female breast, if the breast or breasts are exposed below a point immediately above the top of the areola, or human buttocks; and includes human male genitals in a discernibly 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.
 - c. The above shall not be construed to include a bona fide school, college, university, museum, public library, or art gallery.

12.1-27.1-03.2. Exhibition of X-rated motion picture in unscreened outdoor theater - Penalty.

Any person who, knowing of its character, exhibits any motion picture rated X by the motion picture association of America in any outdoor theater where the screen is visible beyond the limits of the theater audience area, so that the motion picture may be seen and its content or character distinguished by normal unaided vision by a minor viewing it from beyond the limits of the theater audience area, is guilty of a class B misdemeanor.

12.1-27.1-03.3. Creation, possession, or dissemination of sexually expressive images prohibited - Exception.

- 1. A person is guilty of a class A misdemeanor if, knowing of its character and content, that person:
 - a. Without written consent from each individual who has a reasonable expectation of privacy in the image, surreptitiously creates or willfully possesses a sexually expressive image that was surreptitiously created; or
 - b. Distributes or publishes, electronically or otherwise, a sexually expressive image with the intent to cause emotional harm or humiliation to any individual depicted in the sexually expressive image who has a reasonable expectation of privacy in the image, or after being given notice by an individual or parent or guardian of the individual who is depicted in a sexually expressive image that the individual, parent, or guardian does not consent to the distribution or publication of the sexually expressive image.
- 2. A person is guilty of a class B misdemeanor if, knowing of its character and content, that person acquires and knowingly distributes any sexually expressive image that was created without the consent of the subject of the image.
- 3. This section does not authorize any act prohibited by any other law. If the sexually expressive image is of a minor and possession does not violate section 12.1-27.2-04.1, a parent or guardian of the minor may give permission for a person to possess or distribute the sexually expressive image.
- 4. This section does not apply to any book, photograph, video recording, motion picture film, or other visual representation sold in the normal course of business through wholesale or retail outlets that possess a valid sales tax permit or used by an attorney, attorney's agent, or any other person obtaining evidence for a criminal investigation or pending civil action, or by a medical professional or a peace officer acting within that individual's scope of employment.

12.1-27.1-04. Definitions.

Repealed by S.L. 1981, ch. 157, § 1.

12.1-27.1-05. Civil proceeding a prerequisite to criminal liability.

Repealed by S.L. 1981, ch. 157, § 1.

Freedom to View Statement

The **FREEDOM TO VIEW**, along with the freedom to speak, to hear, and to read, is protected by the First Amendment to the Constitution of the United States. In a free society, there is no place for censorship of any medium of expression. Therefore these principles are affirmed:

1. To provide the broadest access to film, video, and other audiovisual materials because they are a means for the communication of ideas. Liberty of circulation is essential to insure the

constitutional guarantee of freedom of expression.

2. To protect the confidentiality of all individuals and institutions using film, video, and other

audiovisual materials.

3. To provide film, video, and other audiovisual materials which represent a diversity of views and expression. Selection of a work does not constitute or imply agreement with or approval of the

content.

4. To provide a diversity of viewpoints without the constraint of labeling or prejudging film, video, or

other audiovisual materials on the basis of the moral, religious, or political beliefs of the producer

or filmmaker or on the basis of controversial content.

5. To contest vigorously, by all lawful means, every encroachment upon the public's freedom to

view.

This statement was originally drafted by the Freedom to View Committee of the American Film and Video Association (formerly the Educational Film Library Association) and was adopted by the AFVA Board of Directors in February 1979. This statement was updated and approved by the AFVA Board of Directors in 1989.

Endorsed January 10, 1990, by the ALA Council

(/offices/off)

Lets look at commonly used statement by those in opposition.
It is not put out by any legal entity.

It is put out by a entity that has a vested interest in promoting pornography. when i look at the description of who formed it, the statement says all the right things but comes from an organization that supports pornography because it is supposedly free speech. Our government is tasked with protecting its citizens and that is what this legislation does. Pornography is reaching our children and the formerly safe institutions are being used to do it. I challenge everyone that hears this to study our sanctioning organizations and affiliations to see what they are really purveying, and you find out they are not gold standards but dark standards as they promote pornography and perversion.