

SB2307 – Written Testimony in Opposition

SB2307 aims to create an environment of government censorship on library materials. It prevents public libraries from fulfilling their mission. Libraries play a key role in enhancing literacy and promoting a love for reading. They host programs and resources for children, adults, and families to improve literacy and promote lifelong reading and learning.

The vague phrase ‘a reasonable person would find lacking in serious literary, artistic, political, or scientific value’ allows for subjective interpretations, leading to arbitrary enforcement. This bill enables subjective censorship by government officials. The language also lists “reasonable adults”, once again, lending to each government official deciding who they regard as reasonable or not.

If passed, this bill could lead to public libraries closing or restricting access to adults (18+) only, as there would be no foolproof way to prevent minors from encountering materials intended for adults. Even with something as extreme as having a walled off section, with no windows, a security guard, checking IDs, and someone uses a fake ID to gain access it could result in librarians being charged with a crime. Similar laws in Idaho led to libraries becoming for adults only.

Digital materials and databases would be cut as well. With vague language people and companies are not going to put their careers, companies, and livelihoods on the line for a poorly constructed North Dakota bill. In turn, North Dakotans will lose access in their communities for educational, informational, career and entertainment opportunities.

Local libraries have policies in place providing for the needs of their local communities. The local communities of ND should not have their libraries censored by the legislature. Parents are free to choose when and how their children utilize their public libraries, once again, the legislature should not be controlling access to educational opportunities. Lastly, the attorney general has no place being the judge and jury of the public’s access to materials in libraries. In *Board of Education v. Pico* (1982), the Supreme Court ruled that government officials cannot remove books from libraries simply because they disagree with their content. SB2307 could result in such unconstitutional removals.

The present Century Code contained in § 12.1-27.1-03.5 already contains language protecting minors from adult materials and serves its purpose well. Page 2 of this testimony contains the language of the above code for easy reference.

I urge lawmakers to vote against SB2307 to protect intellectual freedom, local decision-making, and educational opportunities in our state’s libraries.

Thank you,

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Section 12.1-27.1-03.5 - Public libraries prohibited from maintaining explicit sexual material - Report

1. As used in this section:

a. "Explicit sexual material" means any material which:

(1) Taken as a whole, appeals to the prurient interest of minors;

(2) Is patently offensive to prevailing standards in the adult community in North Dakota as a whole with respect to what is suitable material for minors; and

(3) Taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

b. "Public library" means a library established under chapter 40-38.

2. A public library may not maintain in its children's collection inventory books that contain explicit sexual material.

3. By January 1, 2024, each public library shall develop a policy and process for reviewing library collections to ensure conformance with the requirements of this section. The policy must include a procedure:

a. For the removal or relocation of explicit sexual material in the public library;

b. For the development of a book collection that is appropriate for the age and maturity levels of the individuals who may access the materials, and which is suitable for, and consistent with, the purpose of the library;

c. For the public library to receive, evaluate, and respond to a request from an individual regarding the removal or relocation of one or more of the books or other materials in the library collection containing explicit sexual material; and

d. To periodically review the library collection to ensure the library collection does not contain explicit sexual material in the children's collection.

4. Each public library shall provide a compliance report to the legislative management before May 1, 2024, on the implementation of collection development and relocation of materials policies as required by this section and to ensure sufficient compliance with this section.

N.D.C.C. § 12.1-27.1-03.5

Added by S.L. 2023, ch. 131 (HB 1205), § 1, eff. 8/1/2023, app. to any children's book inventory maintained by a public library beginning 4/1/2024.