

**House Judiciary Committee**  
**March 14th, 2023 HB 2360**  
**Testimony in Opposition**

---

Dear Chair Klemin and the members of the House Judiciary Committee,

I'd urge a "Do Not Pass" on 2360

I have spent five hours reviewing the entirety of testimony submitted during the Senate hearing and provide the analysis of it below. Here is what I believe should be considered when weighing judgment today.

1. Current written language will challenge Miller Test and testimony warns of lawsuit
  - a. Miller Test serves as protective factor in cases of obscenity, meaning the criminal penalties applied to librarians from this bill will be held to much more subjective tests than one defined by Supreme Court according to testimony
2. Proponents in favor have misunderstood a few relationships
  - a. The American Library Association guidelines are being mistaken for carte blanche access for any kid for any book - libraries have several safety mechanisms to stop kids from accessing age inappropriate material.
  - b. Research on the harm of pornography is being applied to any sexual content, where that is not a fair or adequate comparison. Pornography as a classification is different from material that happens to be sexual in nature.
  - c. They treat books they personally find distasteful as pornography, when that is not how any of our systems work nor is it how research into pornography works.
3. Parents are the person in charge of their child and what their child has access to
  - a. It makes no sense to hold libraries accountable to the discretion of individuals who can already govern their child's access and reading material.
  - b. Libraries already do have very strict standards they follow as professionals and institutes.
  - c. Many of these parents are very equipped with every book to avoid (being given lists by national groups) that will have their specifically tailored preferences. This seems much more in line with personal freedom and liberty than banning books for everyone on personal discretion or redefining obscenity.
4. This is likely a moral panic responding to heavy amounts of fear
  - a. The book in questions in our state libraries was not checked out once prior to the entire complaint process leading to this bill according to testimony

Overall, Librarians expressed a dismay that many people testifying did not understand the policies or the implementations of the policies they commented on. Our State Librarian, during neutral testimony offered professional opinion that the word 'pornography' as it is being used

within a criminal component should not be applied nor has it ever been applied to the books within the state library nor would the books being brought up be construed as such.

I believe that many people testifying in favor of this bill, did earnestly try to create the change they wanted to at local levels before bringing it into a bill. I, however, do not believe they would ever be satisfied until any books they personally found objectionable would be removed for all patrons. Moral panics, more than anything are built on the notions of wanting to keep youth safe and lead to reckless actions in hopes to feel less anxious about the world we find.

It took me two hours of reading testimony to realize why they wanted to criminalize librarians. And I realize it was because in their head, all of this material was pornography. Which means, in their head, these librarians were effectively giving their kids harmful porn with devastating effects. But keep in mind the read-ins occurring in our state and the many people found the material in question to not to be harmful or obscene.

I empathize with the individuals who are currently afraid for their kid, but we have solutions for them that don't compromise personal liberty for all people to pursue within our public institutes. We have an interest in balancing the rights of our citizens. I believe the fairest option would be for these individuals to initiate a measure and if passed on the ballot, we as a state could not strictly complain about the outcomes.

Otherwise, we're deciding the sensibilities of North Dakota's opinions on obscene material with less than a fraction of its constituents. While I believe lawmakers do represent their district in most policy discussions, I do not believe our lawmakers represent what 16,500 people agree on is obscene.

It is for these reasons I urge a "Do Not Pass"

Thank you,  
Faye Seidler

## **Testimony Analysis**

### **In Favor**

1. Policy
  - a. [Suggests CIPA doesn't regulate Print and isn't effective opposition](#)
  - b. [Parents have tried local solutions and they have not worked](#)
  - c. [Criminalize librarians for giving sexually explicit material to kids](#)
  - d. [Supreme court obscenity ruling should be disregarded](#)
2. Harm
  - a. [Kids access to sexual material is too easy](#)
  - b. [Need this to protection children from inappropriate material](#)
  - c. [This bill protects sexual abuse victims/porn is abuse](#)
  - d. [Stop queer/drag from harming kids](#)
  - e. [Pornography is responsible for Ted Bundy](#)

- f. [ALA is allows kids to check out any book](#)
- 2. Agenda
  - a. [There is an agenda to sexualize kids](#)
  - b. [There are Woke Librarians harming kids](#)

**In Opposition**

- 1. Rights
  - a. [Libraries are protected by first amendment rights](#)
  - b. [Censorship and likely immediate court challenges](#)
  - c. [Defies and redefines federally accepted Miller Test](#)
- 2. Policy
  - a. [Internet protections already exist with Libraries](#)
  - b. [Vague standards could allow anyone to label any LGBTQ+ material as obscene](#)
  - c. [Could hurt capacity for research](#)
  - d. [Restrict schools ability to teach age appropriate material](#)
- 3. Culture
  - a. [Source of this bills come from a book that wasn't checked out once before public outcry](#)
  - b. [Parents have the right to restrict their kids reading](#)
  - c. [Compared to most phones, the libraries are very secure, why focus on libraries?](#)
  - d. [There is a history of this moral panic](#)

Written Testimony	In Favor	In Opposition
Word Count	16000	5,900
Citizen	25	5
Stakeholder/Qualified	3	17
Legal/Political	3	0
Out of Region	1	0
Total 54	32	22
	59.26%	40.74%
In person testimony Mins	91	3
Total minutes 94	96.81%	3.19%

Committee Vote	Do pass	Don't pass
Total 7	6	1
	85.71%	14.29%

Floor Vote	Yay	Nay
Total 47	38	9
	80.85%	19.15%

\*Stakeholder/Qualified for this bill was determined individuals working with children, IT, or Libraries