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516 2nd Ave SW Minot, ND 58701

January 23, 2023

Chairperson Larson
and Members of the Senate Judiciary Committee,

Thank you for the opportunity to submit testimony urging you to oppose Senate Bill 2123. I have reached out to each of you via e-mail, so I will not reiterate much of what I have already shared regarding my concerns about this bill.

If approved, SB 2123 would put our state on a slippery slope toward censorship and removing individual freedoms. I am shocked that this is even being considered based on the 67th Legislative Assembly, which worked so hard to protect citizens' rights to not wear face coverings and not be forced to vaccinate. This drastic switch to bills that now restrict the rights of readers to access what they want to read **and** of businesses to sell items that earn revenue is somewhat confusing.

Additionally, while I know that this bill was presented with the intention of keeping North Dakota youth "safe," there are some serious concerns regarding what is meant by this...

First of all, it would not be appropriate for me to tell my neighbor's child that they must wear a helmet when riding their bicycle. It may be true that the child would be safer, but it is simply not my place to enforce this. Why should access to reading materials be different?

Secondly, it is unclear what SB 2123 is trying to protect minors from; breasts? genitalia? butts? Is the ND State Legislature trying to promote the idea that bodies are shameful, including one's own body?

Finally, this bill is going to backfire on those who proposed it. While the ONE BOOK everyone seems to be focusing on (*Let's Talk About It*) will be removed, so will the Bible. As proposed, this legislation intended to regulate adult entertainment would also make faith leaders criminally liable for having copies of the Bible accessible to minors in houses of worship.

Like many other bills we have seen in 2023, SB 2123 is far too vague to enforce. Just a few examples of unclear portions include:

- “**where minors are or may be invited as a part of the general public**” is just about everywhere except bars – if this is the case, why not just say that?
- “the exposed cover or **available content** of which exploits, is devoted to, or contains depictions or written descriptions of nude or partially denuded human figures...” **Available content** would mean every book, magazine, or newspaper for anyone who can read – again, just say that since that seems to be the intention.
- “posed or **presented in a manner to exploit sex, lust, or perversion**” is very subjective - what is meant by exploit?

Legally, SB 2123 faces many challenges (and likely expensive legal fees). As it is written, SB 2123 prohibits people from accessing constitutionally protected materials and relates materials describing/depicting the human body and sex to pornography which has been consistently found to be false by the courts.

Many ND legislators have continuously said that bills such as SB 2123 and HB 1205 enforce Chapter 12 of the ND Century Code. However, it cannot be said that our legislators represent “the average person, applying contemporary North Dakota Standards,” as seen by the number of people opposing these censorship bills. Further, elected officials swear to uphold the ND State Constitution and the Constitution of the United States, including the First Amendment.

I understand that there is a lot of confusion about the First Amendment, but fortunately, there have been much more experienced people than you or I who have been able to clarify some of this confusion. For instance, in Board of Education, Island Trees Union Free School District v. Pico (1982), the Supreme Court ruled that public schools can bar books that are “pervasively vulgar” or not right for the curriculum. Still, they **cannot remove books “simply because they dislike the ideas contained in those books,”** as the latter infringes on a student's rights to **receive** and express ideas as outlined in the First Amendment.

Additionally, the 1973 Supreme Court case Miller v. California ruled that, unlike pornography, **obscenity is a legal term and is determined using a three-pronged test known as the Miller Test.** To be classified as obscene, the material must meet **all three** of the following criteria:

1. Whether the average person, applying contemporary adult community standards, finds that the matter, taken as a whole, appeals to prurient interests
2. Whether the average person, applying contemporary adult community standards, finds that the matter depicts or describes sexual conduct in a patently offensive way
3. Whether a reasonable person finds that the matter, taken as a whole, lacks serious literary, artistic, political, or scientific value.

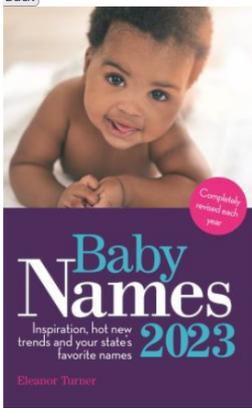
Remember that the work **must be evaluated as a whole** (not based on a single scene or comic panel) and that library collection development policies exist to ensure librarians are acquiring material that does have literary, artistic, political, and scientific value.

My staff and colleagues work hard every day to help your constituents. They help your mom set up her Facebook account, help your friend apply for a job, find the perfect audiobook for your family's long drive, provide resources for your nephew's research report, sing songs and read stories to your grandchildren, provide a safe place for your teenage daughter to come after school, and so much more. We deal with all ages, races, incomes, and backgrounds and often work with people struggling with mental and emotional challenges. We support the communities you serve and ask that you support us by not voting to approve and forward HB 2123. Thank you for your time and consideration.

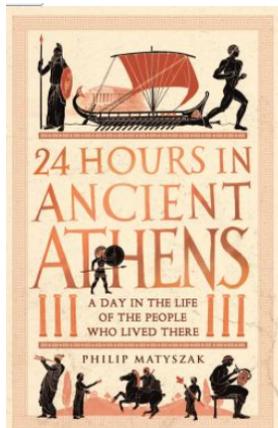
Respectfully,

Janet Anderson
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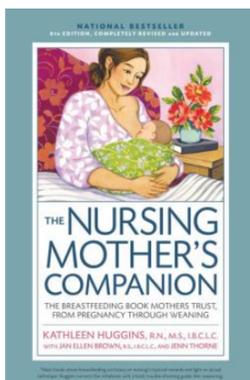
Here are a sample of some books at the Minot Public Library which I could be considered a criminal for shelving, along with potential reasons for challenging these books. I am certain that many of you will brush this off as absurd, but these are no more absurd than the comparison of library materials to *Playboy* and *Penthouse* the misguided assumption that SB 2123 reflects a majority of North Dakotans.



Not only is this person naked, but in order to have babies, people usually have sexual intercourse.



It appears that some of these silhouettes may have little-to-no clothing on.



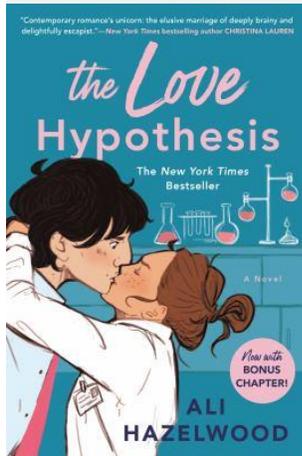
This books “contains depictions” AND “written descriptions of the “female breasts.”

EVERYONE POOPS

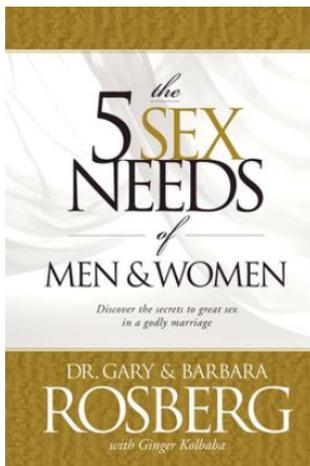


TARO GOMI

This classic children's books contains depictions of "partially denuded human figures."

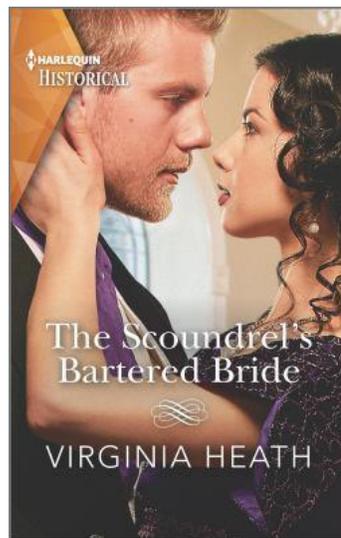
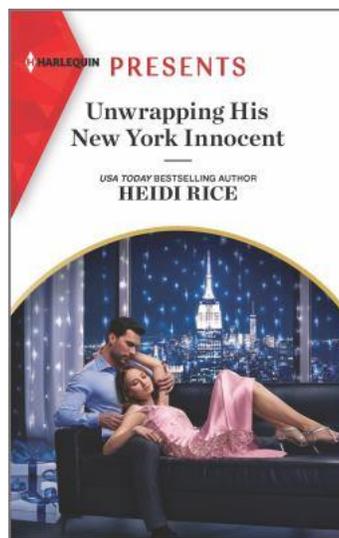
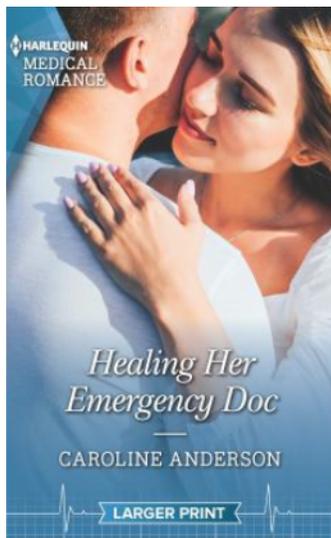
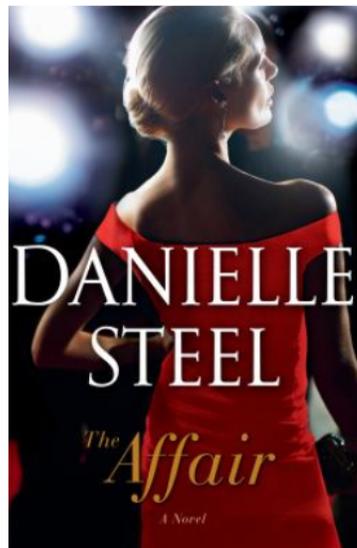
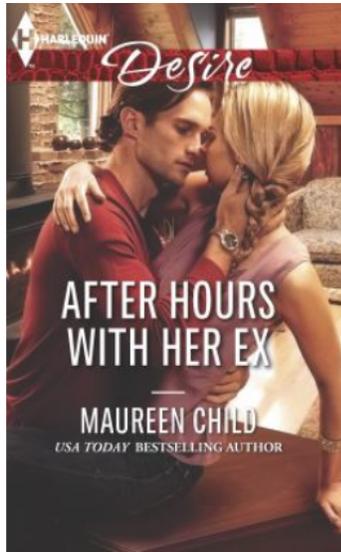


One of the more popular books of the past year will have to be removed due to a couple of pages of intimacy.



This Christian book exploits sex as it is the primary subject matter.

Below is just a small sample of some of the more popular books for our older patrons who will now have to learn how to purchase these online on what we already know is a limited income for this population...



Additional items that would not be allowed:

- *National Geographic* magazine
- *People* magazine
- Certain issues of newspapers if topics related to sex or the human body are reported