

Senate bill No. 2307
Rep. Lawrence R. Klemin
House Appropriations Committee
April 10, 2025

Mr. Chairman and members of the Committee. I am Lawrence R. Klemin, Representative for District 47 in Bismarck. I am also Chairman of the House Judiciary Committee, which heard SB 2307 and recommended "do pass" by a vote of 12 to 1. I am here to explain the bill to you. SB 2307 relates to obscenity control under Chapter 12.1-27.1 of the North Dakota Century Code.

The purpose of SB 2307 is to require school districts and public libraries to develop policies to ensure that "explicit sexual material" is not available to minors and to relocate any books or other materials containing "explicit sexual material" to an area in the library that is not easily accessible to minors. This bill does not ban any books, nor does it require any books to be removed from the library. It does not dictate to the school district or public library where adult materials containing "explicit sexual material" must be located, only that it must not be easily accessible to minors.

Section 1

This section is part of current law and recites what is known as the "Miller test" for determining whether certain material is obscene. The criteria in the Miller test are taken from the U.S. Supreme Court case of *Miller v. California*, 413 U.S. 15 (1973), a landmark decision which clarified the legal definition of obscenity. The only change to current law in this section is to replace the word "ordinary" on line 21 with the word "reasonable", an objective standard.

Section 2

This is a new section that defines "public library".

Section 3

This section amends Section 12.1-27.1-03.1 to include a public library or a public school library with the definition of areas "where minors are or may be invited as a part of the general public".

Section 4

This section amends Section 12.1-27.1-03.5, relating to public libraries, to include "school districts". This section was enacted in the 2023 Legislative Session. As amended in this bill, "school districts" are also required to develop a policy to review its library collection and to ensure that "explicit sexual material" is relocated to an area in the library that is not easily accessible to minors, either on its own, or at the request of an individual. A public library or a school district must also form a decisionmaking

committee to reconsider relocation of "explicit sexual material" and to refer the individual to the local state's attorney if the individual is not satisfied with the decision on whether to relocate certain material. Each public library and school district must provide a compliance report to legislative management before May 1, 2026.

Section 5

This section removes "bona fide school" from the list of organizations and entities that are exempt from criminal liability.

Section 6

This section relates to required safety policies and technology protection measures. Sen. Boehm, the prime sponsor of SB 2307, is here and has an amendment to remove Section 6, so I will not explain this section.

Section 7 [renumbered as Section 6 in the proposed amendment]

This section enacts a new section to Chapter 12.1-27.1 relating to a state's attorney review of certain material at the request of an individual if the public library or school district declines to remove the material to an area not easily accessible to minors. The local state's attorney must review the material and provide a legal opinion within 60 days of the request on whether the material contains "explicit sexual material". If the local state's attorney determines that the material is obscene under the Miller test, and that there is a violation of the North Dakota obscenity law, the state's attorney must notify the public library or school district of the violation and defer any prosecution pending corrective action. [The bill refers to "state agency" here but this term is amended out in the amendment proposed by Sen. Boehm.] The school district or public library then has 10 days to take corrective action.

If the public library fails to take corrective action, the state's attorney must notify the State Treasurer to withhold and retain any funds allocated to the public library until the public library is in compliance with the law. Similarly, with respect to a school district, the state's attorney must notify the Superintendent of Public Instruction to withhold funds until the school district is in compliance with the law. In either case, the state's attorney may also begin prosecution for failure to comply.

The proposed amendment by Sen. Boehm also has two new sections related to the federal Children's Internet Protection Act, which he can describe to you.

I will try to answer any questions you may have, but it would be better to direct any questions to Sen. Boehm. Thank you.

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