

January 16, 2023

Testimony re: HR Bill 1205
Lee Kruger, Resident of Valley City

Dear Honorable Judiciary Committee Members:

I write in opposition of proposed HR 1205 Bill “Relating to prohibiting public libraries from maintaining sexually explicit books,” and particularly to the amendments offered to 12.1-27.1-03.1 of the North Dakota Century Code “relating to objectionable materials and performances” as being unnecessary, misleading, and ill-conceived.

The proposed amendments are unnecessary since existing code deals sufficiently with issues of the display/availability of explicitly sexual content in public places, including venues supported by tax-payer dollars. By adding the section targeting public libraries, the bill would seem to suggest that libraries have an agenda in including sexually explicit material, which contrasts mightily with the aims of the vast majority—if not all—public librarians, who, as professionals committed to serve the public good, strive to make available professionally vetted and valued materials to their public. Should any librarian purposefully display/promote sexually explicit material for either pornographic or prurient purposes in a North Dakota public library, public reaction would be swift and universal.

Additionally, the number and content of the enumerated descriptors proposing to define ‘sexually explicit material’ in the bill seem to belong to a different purpose than that proposed. Obviously, not all depictions of “postpubertal human genitals” could or would be considered “sexually explicit” in any meaningful way, especially as compared to some of the other descriptors aligned as examples with it—sometimes a visual representation is just a visual representation, even outside the laundry list of ‘allowed’ usages. Further, how any—or at least the vast, vast majority of existing—depictions of anything qualifying as “Sex-based classifications,” “Sexual identity,” or “Gender identity,” would be deemed “sexually explicit” is perplexing; I’m not even sure what sort of depictions are actually being suggested. Many cultures have adopted clothing expectations for genders; that these could not be depicted would seem to defy sense. Since part of the public library’s existence, at least according to their primary benefactor, Andrew Carnegie, was to allow people to educate themselves and to “[acquire cultural knowledge](#)” of our country, removing depictions of the above three categories would seem to deny that America has changed, and suggest that discussions about and protections for any Americans who don’t identify as binary are not allowed to be visibly represented in a public library contrary to the initial expectations of its most prominent supporter.

Finally, the provision that any book must be removed from the shelves within a month upon a written request by any one person who “believes” a book is in violation of the amended language seems ill-conceived. Many public libraries have existing policy and processes that show much more concern for fairness and pragmatics than the language here, which suggests that existing law is sufficient to guide librarians and communities in case of a book challenge.

Thank you for reading my testimony.

Respectfully,

Lee Kruger