

HOUSE BILL NO. 1205

Introduced by

Representatives Lefor, Steiner

1 A BILL for an Act to create and enact a new section to chapter 12.1-27.1 of the North Dakota
2 Century Code, relating to prohibiting public libraries from maintaining ~~sexually explicit books;~~ to
3 ~~amend and reenact section 12.1-27.1-03.1 of the North Dakota Century Code, relating to~~
4 ~~objectionable materials or performances~~explicit sexual material; to provide for a legislative
5 management report; and to provide for application.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 ~~— **SECTION 1. AMENDMENT.** Section 12.1-27.1-03.1 of the North Dakota Century Code is~~
8 ~~amended and reenacted as follows:~~

9 ~~— **12.1-27.1-03.1. Objectionable materials or performance – Display to minors –**~~
10 ~~**Definitions – Penalty.**~~

11 ~~— 1. A person is guilty of a class B misdemeanor if he willfully displays at newsstands or~~
12 ~~any other business establishment frequented by minors, or where minors are or may~~
13 ~~be invited as a part of the general public, any photograph, book, paperback book,~~
14 ~~pamphlet, or magazine, the exposed cover or available content of which exploits, is~~
15 ~~devoted to, or is principally made up of depictions of nude or partially denuded human~~
16 ~~figures posed or presented in a manner to exploit sex, lust, or perversion for~~
17 ~~commercial gain.~~

18 ~~— 2. As used in this section:~~

19 ~~— a. "Nude or partially denuded human figures" means less than completely and~~
20 ~~opaquely covered human genitals, pubic regions, female breasts or a female~~
21 ~~breast, if the breast or breasts are exposed below a point immediately above the~~
22 ~~top of the areola, or human buttocks; and includes human male genitals in a~~
23 ~~discernibly turgid state even if completely and opaquely covered.~~

1 ~~_____ b. "Where minors are or may be invited as a part of the general public" includes any~~
2 ~~public roadway or public walkway.~~

3 ~~_____ c. The above shall may not be construed to include a bona fide school,~~
4 ~~college, university, museum, public library, or art gallery.~~

5 **SECTION 1.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Public libraries prohibited from maintaining ~~or promoting certain books~~ explicit**
8 **sexual material - Report.**

9 1. As used in this section:

10 a. "Explicit sexual material" does not include works of art that, when taken as a
11 whole, have serious artistic significance, or works of anthropological significance,
12 or materials used in science courses, including materials used in biology,
13 anatomy, physiology, or sexual education classes. The term means any pictorial,
14 three-dimensional, or visual depiction, including any photography, picture,
15 computer video, or computer-generated image, showing:

16 (1) Human masturbation;

17 (2) Deviant sexual intercourse;

18 (3) Sexual intercourse;

19 (4) Direct physical stimulation of genitals;

20 (5) Sadomasochistic abuse;

21 (6) Postpubertal human genitals;

22 (7) ~~Sexual preferences;~~

23 ~~(8) Sexual activity; or~~

24 ~~(9)(8) Sexual perversion;~~

25 ~~(10) Sex-based classifications;~~

26 ~~(11) Sexual identity; or~~

27 ~~(12) Gender identity.~~

28 b. "Public library" means a library containing collections of books or periodicals for
29 the general population to read, borrow, or refer to which is supported with funds
30 derived from taxation.

- 1 2. A public library may not maintain in its inventory ~~or promote~~ books that ~~make as their~~
2 ~~primary subject the study of~~ contain explicit sexual material.
- 3 3. ~~An individual who believes a public library is maintaining a book in violation of~~
4 ~~subsection 2 may submit a written request to the public library to remove the book~~
5 ~~from its inventory.~~
- 6 ~~4. A public library shall remove the book requested for removal within thirty days of~~
7 ~~receiving the request.~~
- 8 ~~5.~~ By January 1, 2024, each public library shall develop a policy and process for
9 reviewing library collections to ensure conformance with the requirements of this
10 section. The policy must include a procedure:
- 11 a. For the removal and disposal of explicit sexual material from the public library;
12 b. For the development of a book collection that is appropriate for the age and
13 maturity levels of the individuals who may access the materials, and which is
14 suitable for, and consistent with, the purpose of the library;
- 15 ~~b.c.~~ For the public library to receive ~~and~~ evaluate, and respond to a request from an
16 individual regarding the removal of one or more of the books or other materials in
17 the library collection containing explicit sexual material; and
- 18 ~~e.d.~~ To periodically review the library collection to ensure the library collection does
19 not contain explicit sexual material.
- 20 4. Each public library shall provide a compliance report to the legislative management
21 before May 1, 2024, on the implementation of a policy and process for reviewing
22 library collections as required by this section and to ensure sufficient compliance with
23 this section.

24 **SECTION 2. APPLICATION.** This Act applies to any book inventory or library collection
25 maintained by a public library after March 31, 2024.