

H-8276

1 Amend House File 2575 as follows:

2 1. Page 33, after line 6 by inserting:

3 <DIVISION ____

4 DISSEMINATION OF CERTAIN SPECIFIED MATERIALS

5 Sec. ____ . Section 272.2, subsection 14, paragraph b,
6 subparagraph (1), Code 2022, is amended by adding the following
7 new subparagraph division:

8 NEW SUBPARAGRAPH DIVISION. (0g) Providing obscene material
9 or hard-core pornography to students from a school library
10 or requiring a student to read or view obscene material or
11 hard-core pornography under section 728.2A. For purposes of
12 this subparagraph division, "*obscene material*" and "*hard-core*
13 *pornography*" mean the same as defined in section 728.1.

14 Sec. ____ . Section 272.2, subsection 14, Code 2022, is
15 amended by adding the following new paragraph:

16 NEW PARAGRAPH. *f.* The board shall suspend the license of
17 an administrator or a teacher upon the board's finding by a
18 preponderance of evidence that the administrator or teacher
19 violated an injunction entered pursuant to section 728.2A,
20 subsection 4.

21 Sec. ____ . Section 728.1, Code 2022, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 1A. "*Hard-core pornography*" means material
24 depicting patently offensive representations of oral, anal, or
25 vaginal intercourse, actual or simulated, involving humans, or
26 depicting patently offensive representations of masturbation,
27 excretory functions, or bestiality, or lewd exhibition of the
28 genitals, which the average adult taking the material as a
29 whole in applying statewide contemporary community standards
30 would find appeals to the prurient interest; and which
31 material, taken as a whole, lacks serious literary, scientific,
32 political, or artistic value.

33 Sec. ____ . NEW SECTION. 728.2A **Obscene material and**
34 **hard-core pornography in schools and school libraries.**

35 1. As used in this section, unless the context otherwise

1 requires:

2 *a.* "Administrator" means and includes a school
3 superintendent, assistant superintendent, educational
4 director, principal, assistant principal, and other
5 individuals authorized to assist in performing noninstructional
6 administrative duties.

7 *b.* "School" means and includes all of the following:

8 (1) A charter school established in accordance with section
9 256E.2.

10 (2) A nonpublic school, as that term is defined in section
11 280.2.

12 (3) A public school district, as described in chapter 274.

13 *c.* "Student" means an individual who is enrolled in and
14 attending a school in kindergarten through grade twelve.

15 *d.* "Teacher" means the same defined in section 272.1.

16 2. A school shall designate at least one administrator to
17 ensure that no obscene material or hard-core pornography is
18 present and available to students in a library operated by the
19 school that the administrator supervises or directs.

20 3. *a.* An administrator who knowingly provides obscene
21 material to a student in a library operated by the school that
22 the administrator supervises or directs shall be guilty of a
23 serious misdemeanor.

24 *b.* An administrator who knowingly provides hard-core
25 pornography to a student in a library operated by the school
26 that the administrator supervises or directs shall be guilty
27 of an aggravated misdemeanor.

28 *c.* A teacher who knowingly requires a student to read or
29 view obscene material as part of the teacher's instructional
30 program or curriculum shall be guilty of a serious misdemeanor.

31 *d.* A teacher who knowingly requires a student to read
32 or view hard-core pornography as part of the teacher's
33 instructional program or curriculum shall be guilty of an
34 aggravated misdemeanor.

35 4. *a.* A parent or guardian of a student alleging a

1 violation of subsection 3 by an administrator or teacher may
2 bring a civil action for injunctive relief against the school
3 that employs the administrator or teacher to prohibit the
4 administrator or teacher from continuing such violation.

5 *b.* If a parent or guardian is the prevailing party in a
6 civil action instituted pursuant to paragraph "a", all of the
7 following shall apply:

8 (1) The court shall award reasonable attorney fees to the
9 parent or guardian.

10 (2) The court shall assess a civil penalty against the
11 school that employs the administrator or teacher, not to
12 exceed five hundred dollars per day for each day a violation
13 occurs during the pendency of the civil action. However, the
14 court shall not assess the civil penalty provided in this
15 subparagraph for a violation of subsection 3, paragraph "a", if
16 the administrator or the school that employs the administrator
17 removes the obscene material or hard-core pornography from
18 the library operated by the school during the pendency of the
19 civil action. Revenue from the civil penalty provided in this
20 subparagraph shall be remitted to the treasurer of state for
21 deposit in the general fund of the state.

22 (3) The clerk of court shall send a copy of the court's
23 order issued pursuant to paragraph "a" and a copy of this
24 section by restricted certified mail, return receipt requested,
25 to the attorney general and to the county attorney of the
26 county in which the school that employs the administrator or
27 teacher in violation of subsection 3 is located.

28 5. A parent or guardian who was the prevailing party in
29 a civil action instituted pursuant to subsection 4 may bring
30 a civil action for damages against the school that employs
31 the administrator or teacher if the administrator or teacher
32 violates an injunction issued pursuant to subsection 4. If a
33 parent or guardian is the prevailing party in a civil action
34 instituted pursuant to this subsection, the clerk of court
35 shall send a copy of the court's order issued pursuant to this

1 subsection and a copy of this section by restricted certified
2 mail, return receipt requested, to the board of educational
3 examiners. Damages awarded pursuant to this subsection shall
4 include all of the following:

5 *a.* Actual damages for injuries resulting from the
6 administrator's or teacher's initial violation of subsection
7 3 and the administrator's or teacher's violation of the
8 injunction.

9 *b.* A penalty in an amount determined by the court, but
10 not less than one thousand dollars per day for each day the
11 administrator's or teacher's violation of the injunction
12 continues.

13 *c.* The state of Iowa hereby waives immunity from suit and
14 consents to the jurisdiction of any court in which an action
15 is brought against a charter school established in accordance
16 with section 256E.2 or a public school district, as described
17 in chapter 274, respecting any cause of action arising out of
18 this subsection. Such action shall be heard and determined
19 pursuant to rules otherwise applicable to civil actions brought
20 in the particular court having jurisdiction of the suit and
21 the parties to the suit shall have the right of appeal from
22 any judgment, decree, or decision of the trial court to the
23 appropriate appellate court under applicable rules of appeal.

24 6. A county attorney or the attorney general may institute
25 criminal or civil actions to enforce the provisions of this
26 section. A county attorney's or the attorney general's receipt
27 of a copy of a court's injunctive order provided by the clerk
28 of court issued pursuant to subsection 4, along with subsequent
29 information that a violation of subsection 3 is continuing to
30 occur, shall constitute probable cause that a violation of
31 subsection 3 has occurred.

32 Sec. _____. Section 728.4, Code 2022, is amended to read as
33 follows:

34 **728.4 Rental or sale of hard-core pornography.**

35 A person who knowingly rents, sells, or offers for

1 ~~rental or sale material depicting patently offensive~~
2 ~~representations of oral, anal, or vaginal intercourse, actual~~
3 ~~or simulated, involving humans, or depicting patently offensive~~
4 ~~representations of masturbation, excretory functions, or~~
5 ~~bestiality, or lewd exhibition of the genitals, which the~~
6 ~~average adult taking the material as a whole in applying~~
7 ~~statewide contemporary community standards would find appeals~~
8 ~~to the prurient interest; and which material, taken as a whole,~~
9 ~~lacks serious literary, scientific, political, or artistic~~
10 ~~value~~ hard-core pornography, upon conviction, is guilty of
11 an aggravated misdemeanor. However, second and subsequent
12 violations of this section by a person who has been previously
13 convicted of violating this section are class "D" felonies.
14 For purposes of this section, an offense is considered a second
15 or subsequent offense if, prior to the person's having been
16 convicted under this section, the person has a prior conviction
17 or a deferred judgment under section 728.2A, subsection 3,
18 paragraph "b" or "d". Charges under this section may only be
19 brought by a county attorney or by the attorney general.

20 Sec. _____. Section 728.6, Code 2022, is amended to read as
21 follows:

22 **728.6 Civil suit to determine obscenity.**

23 Whenever the attorney general or the county attorney of
24 any county has reasonable cause to believe that any person is
25 engaged or plans to engage in the dissemination or exhibition
26 of obscene material within the county attorney's county
27 to minors, the attorney general or the county attorney may
28 institute a civil proceeding in the district court of the
29 county to enjoin the dissemination or exhibition of obscene
30 material to minors. Such application for injunction is
31 optional and not mandatory and shall not be construed as a
32 prerequisite to criminal prosecution for a violation of this
33 chapter.

34 Sec. _____. Section 728.7, Code 2022, is amended to read as
35 follows:

1 **728.7 Exemptions for public libraries and educational**
2 **institutions.**

3 Nothing in **this chapter** prohibits the use of appropriate
4 material for educational purposes in any accredited school,
5 or any public library, or in any educational program in which
6 the minor is participating. Nothing in **this chapter** prohibits
7 the attendance of minors at an exhibition or display of art
8 works or the use of any materials in any public library. For
9 purposes of this section, "appropriate material" does not
10 include obscene material or hard-core pornography.>

11 2. Title page, by striking lines 1 through 5 and inserting
12 <An Act relating to matters under the purview of the state,
13 including the funding of, the operation of, and appropriation
14 of moneys to the college student aid commission, the department
15 for the blind, the department of education, and the state board
16 of regents, the dissemination of certain specified materials,
17 prohibiting certain specified materials in schools and school
18 libraries, instituting civil actions to determine obscenity,
19 and providing penalties.>

20 3. By renumbering as necessary.

SALMON of Black Hawk