

**House File 2176 - Introduced**

HOUSE FILE 2176

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**A BILL FOR**

1 An Act relating to obscene material disseminated to a minor  
2 by a public or private elementary or secondary school  
3 or library, or a public library, creating a civil cause  
4 of action, providing criminal penalties, and including  
5 effective date provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 728.2A Dissemination of obscene  
2 material to minors by a public or private elementary or secondary  
3 school or library or public library.

4 1. A person affiliated with a public or private elementary  
5 or secondary school or library, or public library in an  
6 official capacity, or a person affiliated with an entity that  
7 provides products or services to such schools or libraries  
8 in this state, who knowingly disseminates to any minor any  
9 material the person knows, or reasonably should know, is  
10 obscene or harmful to minors, is guilty of an aggravated  
11 misdemeanor for a first offense and a class "D" felony if the  
12 person has previously been convicted of a violation of this  
13 section.

14 2. Each day on which a violation under subsection 1 occurs  
15 or continues shall constitute a separate offense.

16 Sec. 2. Section 728.6, Code 2022, is amended to read as  
17 follows:

18 **728.6 Civil suit to determine obscenity.**

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

29 2. a. A parent or guardian of a student enrolled in a  
30 public or private elementary or secondary school, or a parent  
31 or guardian of a child patronizing a public library, whose  
32 student or child receives obscene material in violation of  
33 section 728.2A may bring a civil action against any public  
34 or private elementary or secondary school or library, public  
35 library, affiliated entity, or any other party that has engaged

1 in or caused a person to engage in conduct that violates  
2 section 728.2A for any of the following remedies:

- 3 (1) A declaratory judgment.  
4 (2) Injunctive relief.  
5 (3) Actual, incidental, and consequential damages.  
6 (4) Punitive damages, if appropriate.  
7 (5) Other equitable relief which the court deems  
8 appropriate.

9 b. The minimum award of damages in an action brought  
10 pursuant to this subsection shall be ten thousand dollars  
11 and the prevailing party shall be awarded all costs of such  
12 litigation including reasonable attorney fees and expert  
13 witness fees.

14 3. It is not a defense to an action brought under this  
15 section that the materials disseminated are labeled as  
16 curriculum, approved for an educational use, or otherwise  
17 described to be for educational purposes.

18 Sec. 3. Section 728.7, Code 2022, is amended to read as  
19 follows:

20 **728.7 Exemptions for ~~public libraries and educational~~**  
21 **~~institutions~~ college and university libraries and programs.**

22 Nothing in ~~this chapter~~ prohibits the use of appropriate  
23 material for educational purposes in any accredited ~~school~~  
24 college or university, or any public accredited college or  
25 university library, or in any educational accredited college  
26 or university program in which the minor is participating.  
27 Nothing in ~~this chapter~~ prohibits the attendance of minors  
28 at an exhibition or display of art works ~~or the use of any~~  
29 materials in any public library at any accredited college or  
30 university library or program.

31 Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate  
32 importance, takes effect upon enactment.

33 EXPLANATION

34 The inclusion of this explanation does not constitute agreement with  
35 the explanation's substance by the members of the general assembly.

1 This bill relates to obscene material disseminated to a  
2 minor by a public or private elementary or secondary school or  
3 library, or a public library, creates a civil cause of action,  
4 provides criminal penalties, and includes an effective date.

5 The bill provides that a person affiliated with a public or  
6 private elementary or secondary school or library, or public  
7 library in an official capacity, or a person affiliated with  
8 an entity that provides products or services to such schools  
9 or libraries in this state, who knowingly disseminates to any  
10 minor any material the person knows, or reasonably should know,  
11 is obscene or harmful to minors is guilty of an aggravated  
12 misdemeanor for a first offense and a class "D" felony if the  
13 person has previously been convicted of a violation of the  
14 bill. Each day on which a violation occurs or continues shall  
15 constitute a separate offense. An aggravated misdemeanor is  
16 punishable by confinement for no more than two years and a fine  
17 of at least \$855 but not more than \$8,540. A class "D" felony  
18 is punishable by confinement for no more than five years and a  
19 fine of at least \$1,025 but not more than \$10,245.

20 The bill provides that a parent or guardian of a student  
21 enrolled in a public or private elementary or secondary  
22 school, or a parent or guardian of a child patronizing a public  
23 library, whose student or child receives obscene material in  
24 violation of the bill, may bring a civil action against any  
25 public or private elementary or secondary school or library,  
26 public library, affiliated entity, or any other party that  
27 has engaged in or caused a person to engage in conduct that  
28 violates this section, for any of the following remedies: a  
29 declaratory judgment; injunctive relief; actual, incidental,  
30 and consequential damages; punitive damages, if appropriate;  
31 and other equitable relief which the court deems appropriate.  
32 The minimum award of damages in an action brought pursuant to  
33 the bill shall be \$10,000, and the prevailing party shall be  
34 awarded all costs of litigation including reasonable attorney  
35 fees and expert witness fees.

1 The bill provides that it is not a defense to an action  
2 brought under the bill that the materials disseminated are  
3 labeled as curriculum, approved for an educational use, or  
4 otherwise described to be for educational purposes.

5 Current law provides that Code chapter 728 (obscenity) does  
6 not prohibit the use of appropriate material for educational  
7 purposes in any accredited school, or any public library, or  
8 in any educational program in which a minor is participating,  
9 and does not prohibit the attendance of minors at an exhibition  
10 or display of art works or the use of any materials in any  
11 public library. The bill amends current law to provide that  
12 Code chapter 728 does not prohibit the use of appropriate  
13 material for educational purposes in any accredited college or  
14 university, any accredited college or university library, or  
15 in any accredited college or university program, and does not  
16 prohibit the attendance of minors at an exhibition or display  
17 of art works at any accredited college or university library  
18 or program.

19 The bill takes effect upon enactment.