

House File 274 - Introduced

HOUSE FILE 274

BY SALMON

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 by a public
2 or private elementary or secondary school or library, or public
3 library, of obscene material to minors.

4 1. a. A person affiliated with a public or private
5 elementary or secondary school or library, or public library
6 in an official capacity, or a person affiliated with an
7 entity that provides products or services to such schools or
8 libraries in this state, who knowingly disseminates to any
9 minor any material the person knows, or reasonably should know,
10 is 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 b. Each day on which a violation under paragraph "a" occurs
15 or continues shall constitute a separate offense and shall be
16 punished as a separate violation.

17 2. a. A parent or guardian of a student enrolled in a
18 public or private elementary or secondary school, or of a
19 child patronizing a public library, injured as a result of
20 a violation of this section may bring a civil action in the
21 district court in which the violation occurred against any
22 public or private elementary or secondary school or library,
23 or public library, affiliated entity, or any other party that
24 has engaged in or caused a person to engage in conduct that
25 violates this section, for any of the following remedies:

26 (1) A declaratory judgment.

27 (2) Injunctive relief.

28 (3) Actual, incidental, and consequential damages.

29 (4) Punitive damages, if appropriate.

30 (5) Other equitable relief which the court deems
31 appropriate.

32 b. The prevailing party in an action under this subsection
33 shall be awarded all costs of such litigation including
34 reasonable attorney fees and expert witness fees.

35 3. It is not a defense to liability under this section

1 that the materials disseminated are labeled as curriculum,
2 approved for an educational use, or otherwise described to be
3 for educational, scientific, or artistic purposes.

4 Sec. 2. Section 728.7, Code 2021, is amended to read as
5 follows:

6 **728.7 Exemptions for ~~public libraries and educational~~**
7 **institutions college and university libraries and programs.**

8 Nothing in **this chapter** prohibits the use of appropriate
9 material for educational purposes in any accredited ~~school~~
10 college or university, ~~or any public accredited college or~~
11 university library, or in any ~~educational accredited college~~
12 or university program in which the minor is participating.

13 Nothing in **this chapter** prohibits the attendance of minors
14 at an exhibition or display of art works ~~or the use of any~~
15 ~~materials in any public library at any accredited college or~~
16 university library or program.

17 Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate
18 importance, takes effect upon enactment.

19 EXPLANATION

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

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

26 Current law provides that nothing in Code chapter 728
27 (obscenity) prohibits the use of appropriate material for
28 educational purposes in any accredited school, or any public
29 library, or in any educational program in which a minor is
30 participating, and nothing prohibits the attendance of minors
31 at an exhibition or display of art works or the use of any
32 materials in any public library.

33 The bill amends current law to provide that nothing in Code
34 chapter 728 prohibits the use of appropriate material for
35 educational purposes in any accredited college or university,

1 any accredited college or university library, or in any
2 accredited college or university program, and nothing prohibits
3 the attendance of minors at an exhibition or display of art
4 works at any accredited college or university library or
5 program.

6 The bill provides that a person affiliated with a public or
7 private elementary or secondary school or library, or public
8 library in an official capacity, or a person affiliated with
9 an entity that provides products or services to such schools
10 or libraries in this state, who knowingly disseminates to any
11 minor any material the person knows, or reasonably should know,
12 is obscene or harmful to minors is guilty of an aggravated
13 misdemeanor for a first offense and a class "D" felony if
14 the person has previously been convicted of a violation of
15 the bill. Each day on which a violation occurs or continues
16 shall constitute a separate offense and shall be punished as a
17 separate violation.

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

33 The bill provides that it is not a defense to liability
34 that the materials disseminated are labeled as curriculum,
35 approved for an educational use, or otherwise described to be

1 for educational, scientific, or artistic purposes.

2 An aggravated misdemeanor is punishable by confinement for
3 no more than two years and a fine of at least \$855 but not more
4 than \$8,540. A class "D" felony is punishable by confinement
5 for no more than five years and a fine of at least \$1,025 but
6 not more than \$10,245.

7 The bill takes effect upon enactment.