

**House File 2309 - Introduced**

HOUSE FILE 2309  
BY THOMSON

**A BILL FOR**

1 An Act relating to public library requirements for materials  
2 harmful to minors, and providing civil and criminal penalties,  
3 and including effective date and applicability provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 22.7, subsection 13, Code 2026, is amended  
2 to read as follows:

3 13. The records of a library which, by themselves or when  
4 examined with other public records, would reveal the identity  
5 of the library patron checking out or requesting an item or  
6 information from the library. The records shall be released ~~to~~  
7 as follows:

8 a. To a criminal or juvenile justice agency only pursuant to  
9 an investigation of a particular person or organization suspected  
10 of committing a known crime. The records shall be released only  
11 upon a judicial determination that a rational connection exists  
12 between the requested release of information and a legitimate end  
13 and that the need for the information is cogent and compelling.

14 b. As permitted under chapter 728, subchapter II.

15 Sec. 2. Section 728.1, Code 2026, is amended by adding the  
16 following new subsections:

17 NEW SUBSECTION. 01. "Adult section" means a designated  
18 section in a library where material harmful to minors is shelved  
19 and is described by all of the following:

20 a. The designated section is physically separated from  
21 sections designated for children and young adults.

22 b. The designated section is clearly marked as containing  
23 adult material.

24 c. The designated section is not accessible to minors who are  
25 not accompanied by an adult without parental consent.

26 NEW SUBSECTION. 2A. "Library employee" means a person  
27 employed by, contracted by, or volunteering for a public library  
28 and who performs duties related to the provision of library  
29 materials or services to patrons of that public library.

30 NEW SUBSECTION. 3A. "Material harmful to minors" means  
31 material, including but not limited to a book, magazine,  
32 pamphlet, newspaper, document, image, photograph, drawing, film,  
33 video, digital file, audio recording, or other content, whether  
34 printed, electronic, or digital, that is described by all of the  
35 following:

1     a. Taken as a whole, the material appeals to the prurient  
2 interest of minors in sex, nudity, or excretion.

3     b. The material depicts, describes, or represents, in a  
4 manner patently offensive for minors under contemporary community  
5 standards with respect to what is suitable for minors, any of the  
6 following:

7       (1) Sexual intercourse, including genital-genital,  
8 oral-genital, anal-genital, or oral-anal contact, whether between  
9 persons of the same or opposite sex, or between a human and an  
10 animal.

11       (2) Masturbation.

12       (3) Sadistic or masochistic abuse for sexual purposes.

13       (4) Exhibition or graphic description of the genitals, pubic  
14 area, buttocks, or post-pubescent female breast for the purpose  
15 of sexual stimulation or gratification.

16       (5) Sexual contact.

17       (6) Sexual acts involving bondage, domination, humiliation,  
18 or degradation for the purpose of sexual stimulation.

19       (7) Sexual acts involving bodily fluids or excretory  
20 functions for the purpose of sexual stimulation.

21     c. Taken as a whole, the material lacks literary, artistic,  
22 political, or scientific value for minors.

23     NEW SUBSECTION. 5A. "Parent" means any of the following:

24       a. A biological or adoptive parent of a minor.

25       b. A legal guardian of a minor.

26       c. A person standing in loco parentis to a minor as  
27 documented by court order, power of attorney, or other legal  
28 instrument.

29       d. A legal custodian of a minor.

30     NEW SUBSECTION. 5B. a. "Parental consent" means written  
31 authorization signed by a minor's parent permitting the minor to  
32 access material harmful to minors. Written authorization may be  
33 any of the following:

34       (1) General authorization to allow access to all library  
35 materials without restriction.

1 (2) Limited authorization to allow access to specific  
2 categories of materials or specific titles.

3 b. A parent may revoke parental consent at any time by  
4 providing written notice of revocation to the library at which  
5 parental consent was previously given.

6 NEW SUBSECTION. 6A. "*Presumptively harmful material*" means  
7 material that meets two or more of the following criteria:

8 a. The material is marketed, labeled, or rated by the  
9 publisher, distributor, or author as intended for adults, mature  
10 audiences, persons over eighteen years of age, or a similar  
11 designation.

12 b. The material contains explicit depictions or descriptions  
13 of sexual intercourse, oral sex, anal sex, masturbation, or  
14 sexual contact.

15 c. The material contains graphic, vulgar, or obscene language  
16 describing sexual acts or genitalia.

17 d. The material depicts or describes sexual acts involving  
18 violence, coercion, degradation, humiliation, or sadomasochism.

19 e. The material depicts or describes sexual acts involving  
20 incest, regardless of whether the participants are consenting  
21 adults in the narrative.

22 f. The material depicts or describes sexual acts in the  
23 context of grooming, exploitation, or abuse.

24 g. The material is shelved by the library in an adult section  
25 or is not cataloged as juvenile or young adult material by the  
26 publisher.

27 NEW SUBSECTION. 8A. "*Public library*" means any of the  
28 following:

29 a. A library that is a part of the library support network  
30 described in section 8A.206.

31 b. A regional library system under the purview of the library  
32 services advisory panel convened under section 8A.221.

33 c. A library district established under section 336.2.

34 d. A library under the purview of a library board as  
35 described in section 392.5.

1 e. A library that receives moneys from the state or a  
2 political subdivision of the state.

3 f. A library operated by or on behalf of any of the  
4 following:

5 (1) An area education agency established under section 273.2.

6 (2) A school district as described in chapter 274.

7 (3) An institution of higher education governed by the state  
8 board of regents, to the extent the institution of higher  
9 education provides services to minors.

10 NEW SUBSECTION. 8B. "Restricted access" means that a minor  
11 may not check out, access, read on a library's premises, or  
12 otherwise obtain material harmful to minors without parental  
13 consent on file with the library that possesses the material  
14 harmful to minors.

15 NEW SUBSECTION. 10A. "Sexual contact" means touching of the  
16 genitals, pubic area, buttocks, or female breast for the purpose  
17 of sexual stimulation or gratification.

18 Sec. 3. Section 728.1, subsection 1, Code 2026, is amended to  
19 read as follows:

20 1. "Disseminate" means to sell, lend, distribute, exhibit,  
21 give away, provide access to, or otherwise transfer possession or  
22 make available, with or without consideration.

23 Sec. 4. Section 728.7, Code 2026, is amended to read as  
24 follows:

25 **728.7 Exemptions for public libraries and educational**  
26 **institutions.**

27 Nothing in this chapter ~~prohibits the~~ shall prohibit any of  
28 the following:

29 1. The use of appropriate material for educational or  
30 research purposes by an adult or a minor with parental consent in  
31 any an accredited school, or any a public library, or in any an  
32 educational program in which the minor is participating. Nothing  
33 in this chapter prohibits the

34 2. The attendance of minors at an exhibition or display of  
35 art works or the use of any materials in any public library.

1     Sec. 5. NEW SECTION.   **728.20 Public libraries — prohibition**  
2 **on material harmful to minors.**

3     1. A public library shall not do any of the following:

4     a. (1) Disseminate material harmful to minors to a minor  
5 unless the library has obtained parental consent authorizing the  
6 minor's access to the material harmful to minors.

7     (2) A public library shall maintain parental consent in the  
8 public library's records for as long as the parental consent  
9 remains valid.

10    b. Assist a minor in circumventing the requirement to obtain  
11 parental consent prior to accessing material harmful to minors.

12    c. Encourage or advise a minor to access material harmful to  
13 minors without parental consent.

14    d. Discourage a parent from exercising the parent's right to  
15 grant or revoke parental consent.

16    e. Provide false or misleading information to a parent  
17 regarding the parent's rights or the library's obligations under  
18 this section.

19    f. Retaliate against a parent or patron who exercises rights  
20 under this section.

21    2. Before disseminating material harmful to minors, a library  
22 shall verify that the individual attempting to obtain material  
23 harmful to minors is any of the following:

24    a. An individual eighteen years of age or older.

25    b. A minor whose parent has provided parental consent to  
26 access the material harmful to minors.

27    3. Parental consent shall be documented on a form prescribed  
28 by the state librarian appointed under section 8A.204. The  
29 parental consent form shall include all of the following:

30    a. The name of the minor.

31    b. The name and signature of the parent giving parental  
32 consent.

33    c. The parent's relationship to the minor.

34    d. The date the parental consent was given.

35    e. Whether the parental consent is general authorization or

1 limited authorization.

2 *f.* An acknowledgment that the parent understands the nature  
3 of material harmful to minors.

4 *g.* An acknowledgment that the parent understands the parent  
5 may revoke parental consent at any time.

6 4. Parental consent shall be valid for a period of one  
7 calendar year from the date of a parent's signature on a parental  
8 consent form unless the parent revokes the parental consent  
9 earlier.

10 5. *a.* A minor shall be considered to have restricted access  
11 until the minor obtains parental consent to access material  
12 harmful to minors.

13 *b.* A library shall maintain a system to identify whether a  
14 minor has restricted access or if the minor has parental consent  
15 to access material harmful to minors.

16 Sec. 6. NEW SECTION. **728.21 Public libraries — material**  
17 **classification, shelving, and cataloging.**

18 1. A public library shall review the materials in the public  
19 library's possession and classify the materials as one of the  
20 following:

21 *a.* General access, if the material is suitable for all ages,  
22 including minors without parental consent.

23 *b.* Harmful to minors, if the material is material harmful to  
24 minors.

25 2. Material that is presumptively harmful material shall  
26 be classified as harmful to minors unless the public library  
27 documents, in writing, a determination that the material has  
28 serious literary, artistic, political, or scientific value for  
29 minors in a manner that is sufficient to rebut the presumption  
30 that the material is material harmful to minors.

31 3. Classifications of a material shall be documented by the  
32 public library and retained for a period of at least five  
33 consecutive calendar years.

34 4. Material classified as harmful to minors shall be shelved  
35 as follows:

1 a. In the adult section of the public library.

2 b. Separate from sections of the public library designated  
3 for children or young adults, or any section intended for or  
4 accessible to minors without staff assistance.

5 c. Not displayed in a manner visible to minors browsing  
6 age-appropriate sections of the public library.

7 5. An adult section of a public library shall meet all of the  
8 following requirements:

9 a. The adult section shall be clearly designated and marked  
10 as an adult section.

11 b. The adult section shall be separated from sections of the  
12 public library designated for children or young adults.

13 c. The adult section shall be accessible to an individual  
14 over eighteen years of age and to a minor with parental consent  
15 on file that allows the minor to access the adult section.

16 6. A public library's catalog system shall be configured to  
17 do all of the following:

18 a. Identify material classified as harmful to minors.

19 b. Prevent a minor from placing holds on or checking out  
20 materials the minor has not been given parental consent to  
21 access.

22 c. Alert library staff when a minor without parental consent  
23 attempts to access materials the minor has not been given  
24 parental consent to access.

25 Sec. 7. NEW SECTION. **728.22 Request for reconsideration.**

26 1. A parent of a minor patron of a public library may submit  
27 a written request for reconsideration of any of the following:

28 a. A public library's classification of specific material as  
29 general access instead of harmful to minors.

30 b. A public library's determination that specific material  
31 has serious value for minors that is sufficient enough to rebut  
32 the presumption the material is material harmful to minors.

33 2. A public library shall establish a reconsideration  
34 procedure that provides all of the following:

35 a. A form for submitting a reconsideration request.

1     *b.* A timeline for responding to a reconsideration request  
2 that shall not exceed thirty calendar days.

3     *c.* A review of the reconsideration request by the public  
4 library's director or the public library director's designee.

5     *d.* An opportunity for the parent submitting the  
6 reconsideration request to present information in support of the  
7 request.

8     *e.* A written decision relating to the reconsideration request  
9 including reasons for the decision.

10    *f.* A procedure for how to appeal the public library's  
11 decision relating to the reconsideration request to the public  
12 library's board of trustees.

13    3. During the time a reconsideration request is under review  
14 by a public library or the public library's board of trustees,  
15 the public library may, in its discretion, temporarily reclassify  
16 the material subject to the reconsideration request as harmful to  
17 minors.

18    4. A parent may appeal a public library's decision for  
19 a reconsideration request the parent submitted to the public  
20 library's board of trustees.

21    5. A public library board of trustees reviewing the appeal of  
22 a public library's decision for a reconsideration request shall  
23 do all of the following:

24    *a.* Provide the parent an opportunity to address the board of  
25 trustees at a public meeting.

26    *b.* Review the material subject to the reconsideration request  
27 and the public library's decision for the reconsideration  
28 request.

29    *c.* Issue a written decision for the appeal within thirty  
30 calendar days of the parent appealing the public library's  
31 decision.

32    6. A board of trustee's decision under subsection 5 shall  
33 be final for purposes of administrative review but shall not  
34 preclude a parent from seeking judicial review or pursuing civil  
35 remedies under this chapter.

1     Sec. 8.   NEW SECTION.   **728.23 Civil remedies.**

2     1. A parent of a minor may bring a civil action against  
3 a public library, public library board of trustees, or library  
4 employee who violates this chapter.

5     2. A court may award any combination of the following to a  
6 prevailing plaintiff:

7     a. Civil damages of not less than one thousand dollars but  
8 not more than ten thousand dollars.

9     b. Actual damages, including damages for emotional distress,  
10 if the actual damages are greater than the damages that would be  
11 awarded in paragraph "a".

12    c. Injunctive relief.

13    d. Declaratory relief.

14    e. Reasonable attorney fees.

15    f. Punitive damages if the violation was willful or reckless.

16    3. An action under this section must be brought within two  
17 years of the date the parent knew or reasonably should have known  
18 of the violation.

19    4. a. Sovereign immunity and governmental immunity are  
20 waived for claims under this section. These waivers of immunity  
21 only apply to claims under this subchapter and do not constitute  
22 a general waiver of immunity.

23    b. A public library, public library board of trustees, public  
24 library director, or public library employee shall not assert  
25 sovereign immunity, governmental immunity, or qualified immunity  
26 as a defense to a claim under this section.

27    5. A public library board of trustees shall be vicariously  
28 liable for violations committed by a library employee acting  
29 within the scope of the library employee's employment.

30    6. A city or county operating a public library shall  
31 be vicariously liable for violations committed by the public  
32 library, public library board of trustees, or public library  
33 employees.

34    7. A library employee who willfully violates this chapter may  
35 be held personally liable.

1 8. A library director who fails to implement policies and  
2 procedures required by this chapter may be held personally liable  
3 for resulting violations.

4 Sec. 9. NEW SECTION. **728.24 Criminal penalties.**

5 1. A person commits a criminal offense if the person does any  
6 of the following:

7 a. Willfully disseminates material harmful to minors to a  
8 minor if the person knows that the minor does not have parental  
9 consent to access the material harmful to minors.

10 b. Willfully assists a minor in circumventing the parental  
11 consent requirements of this chapter with the intent to enable  
12 the minor to access material harmful to minors.

13 c. Willfully provides false information to a parent to  
14 prevent the parent from exercising rights under this chapter.

15 d. Willfully destroys, conceals, or falsifies records  
16 required by this chapter with the intent to obstruct enforcement  
17 of this chapter.

18 2. A first offense under this section is a serious  
19 misdemeanor punishable by imprisonment of up to one year, a fine  
20 not less than five hundred dollars but not more than two thousand  
21 five hundred dollars, or both.

22 3. A second or subsequent offense under this section is an  
23 aggravated misdemeanor, punishable by imprisonment of up to two  
24 years, a fine not less than one thousand dollars but not more  
25 than ten thousand dollars, or both.

26 4. If a public offense under this section involves a pattern  
27 of disseminating material harmful to minors to multiple minors,  
28 or if the offender holds a position of trust or authority over  
29 minors, the offense shall be classified one level higher than  
30 otherwise provided.

31 5. a. The county attorney of the county where a violation  
32 occurred shall have authority to prosecute violations under this  
33 section.

34 b. The attorney general may prosecute a violation under this  
35 section if a county attorney declines to prosecute the violation

1 or if the violation involves multiple counties.

2 6. A person may file a complaint with a county attorney  
3 alleging a violation of this section. The county attorney shall  
4 investigate and determine whether prosecution is warranted.

5 Sec. 10. NEW SECTION. **728.25 Good-faith immunity.**

6 1. A public library, library board of trustees, public  
7 library director, or public library employee shall not be liable  
8 under this chapter if all of the following apply:

9 a. For a public library, the public library has adopted and  
10 implemented policies and procedures designed to comply with this  
11 subchapter, and the public library has made a good-faith effort  
12 to classify materials as required under section 728.21.

13 b. The person's or entity's violation of this chapter  
14 resulted from an isolated error or mistake despite reasonable  
15 efforts to comply with this subchapter.

16 c. Upon discovery of the violation, the person or entity took  
17 prompt corrective action.

18 2. When determining whether a person or entity acted in good  
19 faith, a court shall consider all of the following:

20 a. Whether the public library adopted written policies to  
21 implement the requirements of this subchapter.

22 b. Whether the public library trained employees on the  
23 requirements of this subchapter.

24 c. Whether the public library established a system for  
25 classifying materials.

26 d. Whether the public library established a system for  
27 tracking parental consent.

28 e. Whether the library responded appropriately to requests  
29 for reconsideration.

30 f. The speed and adequacy of the person or entity's response  
31 to a discovery of a violation.

32 3. Subsection 1 shall not apply to any of the following:

33 a. A willful violation.

34 b. A violation committed with reckless disregard for this  
35 subchapter.

1 c. A violation that indicates systematic noncompliance with  
2 this subchapter due to repeated violations.

3 d. A violation after having been notified of noncompliance  
4 with this subchapter and failing to take corrective action.

5 Sec. 11. NEW SECTION. **728.26 State librarian annual**  
6 **report.**

7 Beginning one calendar year after the effective date of this  
8 Act, the state librarian appointed under section 8A.204 shall  
9 submit an annual report to the general assembly that summarizes  
10 all of the following:

11 1. The implementation of this subchapter by public libraries.

12 2. The number of materials classified as harmful to minors  
13 statewide.

14 3. The number of parental consent authorizations on file with  
15 a public library.

16 4. The number of reconsideration requests filed within the  
17 immediately preceding calendar year and the outcomes of the  
18 reconsideration requests.

19 5. The enforcement actions or litigation initiated under this  
20 subchapter within the immediately preceding calendar year.

21 6. Recommendations the state librarian has for legislative  
22 improvements of this subchapter.

23 Sec. 12. Section 809A.17, subsection 5, paragraph c, Code  
24 2026, is amended to read as follows:

25 c. Material in violation of chapter 728, subchapter I, shall  
26 be destroyed.

27 Sec. 13. INTERPRETATION OF ACT.

28 1. This Act shall be liberally construed to effectuate the  
29 Act's purpose of protecting minors from material harmful to  
30 minors.

31 2. This Act shall be construed to support the fundamental  
32 right of a parent to direct the upbringing of the parent's child,  
33 including decisions related to the child's exposure to sexually  
34 explicit material.

35 3. This Act shall not be construed to restrict adult access

1 to any public library materials. Adults shall retain full access  
2 to all public library materials without restriction.

3 4. This Act shall not be construed to incorporate, adopt, or  
4 give legal effect to any policy, recommendation, or guidance of  
5 the American library association.

6 5. This Act shall be interpreted to occupy the maximum  
7 constitutional space permitted by Ginsberg v. New York, 390 U.S.  
8 629 (1968), and subsequent precedents. If any provision of this  
9 Act is found to exceed constitutional limits, a court is directed  
10 to interpret the provisions exceeding constitutional limits  
11 narrowly to preserve constitutionality rather than invalidating  
12 the provision.

13 Sec. 14. DEPARTMENT OF ADMINISTRATIVE SERVICES — STATE  
14 LIBRARIAN GUIDANCE.

15 1. Within sixty calendar days of the effective date of this  
16 Act, the state librarian appointed under section 8A.204 shall  
17 issue guidance to each public library as that term is defined in  
18 section 728.1, relating to all of the following:

19 a. The public library's requirements under this Act.

20 b. The meaning of material harmful to minors as defined in  
21 section 728.1 and how to identify material harmful to minors.

22 c. The classification process and how to document progress  
23 toward meeting the requirements of section 728.21.

24 d. The parental consent process. The state librarian shall  
25 also prescribe forms for a public library to use when obtaining  
26 parental consent.

27 e. Shelving and catalog system requirements.

28 f. The reconsideration process.

29 g. How to show good-faith compliance with sections 728.20  
30 through 728.22.

31 h. The legal framework under Ginsberg v. New York, 390 U.S.  
32 629 (1968), and other relevant precedent.

33 i. Clarification that American library association policies  
34 are not law and do not supersede state law.

35 2. The state librarian shall develop and distribute model

1 policies and forms to public libraries. The model policies and  
2 forms shall include all of the following:

- 3 a. A model classification policy.
- 4 b. A model parental consent form.
- 5 c. A model reconsideration request form.
- 6 d. Model procedures for when a public library receives a  
7 reconsideration request.
- 8 e. A model employee training curriculum.

9 3. The state librarian shall offer training to public library  
10 directors, public library boards of trustees, and public library  
11 employees on the requirements of sections 728.20 through 728.22.  
12 The training shall be made available to public library directors,  
13 public library boards of trustees, and public library employees  
14 within ninety calendar days of the effective date of this Act.

15 Sec. 15. CODE EDITOR DIRECTIVE. The Code editor is directed  
16 to create a new subchapter II in chapter 728 consisting of  
17 sections 728.20 through 728.26 and title the new subchapter  
18 "materials harmful to minors".

19 Sec. 16. EFFECTIVE DATE. This Act, being deemed of immediate  
20 importance, takes effect upon enactment.

21 Sec. 17. APPLICABILITY. The following apply ninety days  
22 after the effective date of this Act:

23 The sections of this Act enacting sections 728.20, 728.21, and  
24 728.22.

25 Sec. 18. APPLICABILITY. The following apply one hundred  
26 eighty days after the effective date of this Act:

27 The sections of this Act enacting sections 728.23, 728.24, and  
28 728.25.

29 **EXPLANATION**

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

32 This bill relates to public library requirements for materials  
33 harmful to minors.

34 The bill defines "adult section", "disseminate", "library  
35 employee", "material harmful to minors", "parent", "parental

1 consent", "presumptively harmful material", "public library",  
2 "restricted access", and "sexual contact".

3 The bill eliminates an exemption to Code chapter 728  
4 (obscenity) for use of appropriate material for education  
5 purposes by a public library program in which a minor is  
6 participating.

7 The bill prohibits a public library from disseminating  
8 material harmful to minors to a minor unless the library has  
9 obtained parental consent authorizing the minor's access to the  
10 material harmful to minors. The bill requires the public library  
11 to maintain parental consent in the public library's records for  
12 as long as the parental consent remains valid.

13 The bill prohibits a public library from performing certain  
14 acts related to allowing a minor access to material harmful to  
15 minors, informing parents of the parent's rights under the bill,  
16 and retaliating against a parent or patron who exercises rights  
17 under the bill.

18 The bill requires a public library to verify that an  
19 individual attempting to obtain material harmful to minors is an  
20 individual 18 years of age or older or a minor whose parent has  
21 provided parental consent to access material harmful to minors  
22 prior to disseminating material harmful to minors.

23 The bill details what a parental consent form from a public  
24 library must contain. Parental consent is valid for a period  
25 of one calendar year from the date of a parent's signature on  
26 a parental consent form unless the parent revokes the parental  
27 consent earlier. A minor is considered to have restricted access  
28 to material harmful to minors until the minor obtains parental  
29 consent to access the material. The library must maintain a  
30 system to identify whether a minor has restricted access or if  
31 the minor has parental consent to access material harmful to  
32 minors.

33 The bill requires a public library to review the materials  
34 in the public library's possession and classify the materials as  
35 general access or harmful to minors.

1 The bill requires material that is presumptively harmful  
2 material to be classified as harmful to minors unless the  
3 public library documents, in writing, a determination that the  
4 material has serious literary, artistic, political, or scientific  
5 value for minors in a manner that is sufficient to rebut the  
6 presumption that the material is material harmful to minors.

7 The bill requires classifications of a material to be  
8 documented by the public library and retained for a period of at  
9 least five consecutive calendar years.

10 The bill requires material classified as harmful to minors to  
11 be shelved in a public library as detailed in the bill.

12 The bill requires an adult section of a public library to meet  
13 certain specifications as detailed in the bill.

14 The bill requires a public library's catalog system to  
15 identify material classified as harmful to minors, prevent a  
16 minor from placing holds on or checking out materials the minor  
17 has not been given parental consent to access, and alert library  
18 staff when a minor without parental consent attempts to access  
19 materials the minor has not been given parental consent to  
20 access.

21 The bill allows a parent of a minor patron of a public  
22 library to submit a written request for reconsideration of a  
23 public library's classification of specific material as general  
24 access instead of harmful to minors, or a public library's  
25 determination that specific material has serious value for minors  
26 that is sufficient enough to rebut the presumption the material  
27 is material harmful to minors.

28 The bill requires a public library to establish a  
29 reconsideration procedure as described in the bill. During  
30 the time a reconsideration request is under review by a  
31 public library or the public library's board of trustees, the  
32 bill allows the public library to temporarily reclassify the  
33 material subject to the reconsideration request as harmful to  
34 minors. A parent may appeal a public library's decision for  
35 a reconsideration request the parent submitted to the public

1 library's board of trustees. The bill requires a public library  
2 board of trustees reviewing the appeal of a public library's  
3 decision for a reconsideration request to perform certain actions  
4 as detailed in the bill. A board of trustees' decision shall  
5 be final for purposes of administrative review but shall not  
6 preclude a parent from seeking judicial review or pursuing civil  
7 remedies under the bill.

8 The bill allows a parent of a minor to bring a civil action  
9 against a public library, public library board of trustees, or  
10 library employee who violates the bill. A court may award  
11 any combination of civil damages of not less than \$1,000 but  
12 not more than \$10,000; actual damages, including damages for  
13 emotional distress, if the actual damages are greater than the  
14 civil damages that would otherwise be awarded; injunctive relief;  
15 declaratory relief; reasonable attorney fees; and punitive  
16 damages if the violation was willful or reckless. An action  
17 for civil damages under the bill must be brought within two  
18 years of the date the parent knew or reasonably should have  
19 known of the violation. The bill waives sovereign immunity and  
20 governmental immunity for civil claims under the bill. These  
21 waivers of immunity only apply to claims under the bill and do  
22 not constitute a general waiver of immunity. A public library,  
23 public library board of trustees, public library director, or  
24 public library employee may not assert sovereign immunity,  
25 governmental immunity, or qualified immunity as a defense to a  
26 civil claim under the bill.

27 The bill makes a public library board of trustees vicariously  
28 liable for violations committed by a library employee acting  
29 within the scope of the library employee's employment, and a  
30 city or county operating a public library vicariously liable for  
31 violations committed by the public library, public library board  
32 of trustees, or public library employees. The bill allows a  
33 person to hold a library employee who willfully violates the bill  
34 personally liable.

35 The bill allows a library director who fails to implement

1 policies and procedures required by the bill to be held  
2 personally liable for resulting violations.

3 The bill makes it a criminal offense for a person to willfully  
4 disseminate material harmful to minors to a minor if the person  
5 knows that the minor does not have parental consent to access  
6 the material harmful to minors; willfully assists a minor in  
7 circumventing the parental consent requirements of the bill with  
8 the intent to enable the minor to access material harmful to  
9 minors; willfully provides false information to a parent to  
10 prevent the parent from exercising rights under the bill; or  
11 willfully destroys, conceals, or falsifies records required by  
12 the bill with the intent to obstruct enforcement of the bill. A  
13 first offense is a serious misdemeanor punishable by imprisonment  
14 of up to one year, a fine not less than \$500 but not more  
15 than \$2,500, or both. A second or subsequent offense is an  
16 aggravated misdemeanor, punishable by imprisonment of up to two  
17 years, a fine not less than \$1,000 but not more than \$10,000,  
18 or both. If a public offense under the bill involves a pattern  
19 of disseminating material harmful to minors to multiple minors,  
20 or if the offender holds a position of trust or authority over  
21 minors, the offense shall be classified one level higher than  
22 otherwise provided. The county attorney of the county where a  
23 violation occurred shall have authority to prosecute violations  
24 under the bill. The attorney general may prosecute a violation  
25 under the bill if a county attorney declines to prosecute the  
26 violation or if the violation involves multiple counties. The  
27 bill allows a person to file a complaint with a county attorney  
28 alleging a violation of the bill. The county attorney shall  
29 investigate and determine whether prosecution is warranted.

30 The bill creates a means of asserting good-faith immunity as  
31 detailed in the bill.

32 Beginning one calendar year after the date of the bill's  
33 enactment, the bill requires the state librarian to submit  
34 an annual report to the general assembly that summarizes the  
35 implementation of the bill by public libraries; the number

1 of materials classified as harmful to minors statewide; the  
2 number of parental consent authorizations on file with a public  
3 library; the number of reconsideration requests filed within  
4 the immediately preceding calendar year and the outcomes of the  
5 reconsideration requests; the enforcement actions or litigation  
6 initiated under the bill within the immediately preceding  
7 calendar year; and recommendations the state librarian has for  
8 legislative improvements of the bill's provisions.

9 The bill details several factors for how the bill shall be  
10 interpreted.

11 The bill requires the state librarian to issue guidance  
12 relating to the bill's requirements to each public library as  
13 detailed in the bill within 60 calendar days of the bill's  
14 effective date; to develop and distribute model policies and  
15 forms to public libraries as detailed in the bill; and to offer  
16 training to public library directors, public library boards of  
17 trustees, and public library employees on the bill's requirements  
18 within 90 calendar days of the bill's effective date.

19 The bill makes a conforming change to Code sections 22.7 and  
20 809A.17.

21 The sections of the bill enacting Code sections 728.20,  
22 728.21, and 728.22 become applicable 90 days after the bill's  
23 effective date.

24 The sections of the bill enacting Code sections 728.23,  
25 728.24, and 728.25 become applicable 180 days after the bill's  
26 effective date.

27 The bill takes effect upon enactment.