

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; and to provide for application.

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

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

8 **12.1-27.1-03.1. Objectionable materials or performance - Display to minors -**

9 **Definitions - Penalty.**

- 10 1. A person is guilty of a class B misdemeanor if he willfully displays at newsstands or
11 any other business establishment frequented by minors, or where minors are or may
12 be invited as a part of the general public, any photograph, book, paperback book,
13 pamphlet, or magazine, the exposed cover or available content of which exploits, is
14 devoted to, or is principally made up of depictions of nude or partially denuded human
15 figures posed or presented in a manner to exploit sex, lust, or perversion for
16 commercial gain.
- 17 2. As used in this section:
- 18 a. "Nude or partially denuded human figures" means less than completely and
19 opaquely covered human genitals, pubic regions, female breasts or a female
20 breast, if the breast or breasts are exposed below a point immediately above the
21 top of the areola, or human buttocks; and includes human male genitals in a
22 discernibly turgid state even if completely and opaquely covered.
- 23 b. "Where minors are or may be invited as a part of the general public" includes any
24 public roadway or public walkway.

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

3 **SECTION 2.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is
4 created and enacted as follows:

5 **Public libraries prohibited from maintaining or promoting certain books.**

6 1. As used in this section:

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

- 13 (1) Human masturbation;
- 14 (2) Deviant sexual intercourse;
- 15 (3) Sexual intercourse;
- 16 (4) Direct physical stimulation of genitals;
- 17 (5) Sadomasochistic abuse;
- 18 (6) Postpubertal human genitals;
- 19 (7) Sexual preferences;
- 20 (8) Sexual activity;
- 21 (9) Sexual perversion;
- 22 (10) Sex-based classifications;
- 23 (11) Sexual identity; or
- 24 (12) Gender identity.

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

28 2. A public library may not maintain in its inventory or promote books that make as their
29 primary subject the study of explicit sexual material.

1 3. An individual who believes a public library is maintaining a book in violation of
2 subsection 2 may submit a written request to the public library to remove the book
3 from its inventory.

4 4. A public library shall remove the book requested for removal within thirty days of
5 receiving the request.

6 5. By January 1, 2024, each public library shall develop a policy and process for
7 reviewing library collections to ensure conformance with the requirements of this
8 section. The policy must include a procedure:

9 a. For the development of a book collection that is appropriate for the age and
10 maturity levels of the individuals who may access the materials, and which is
11 suitable for, and consistent with, the purpose of the library;

12 b. For the public library to receive and evaluate a request from an individual
13 regarding the removal of one or more of the books in the library collection
14 containing explicit sexual material; and

15 c. To periodically review the library collection to ensure the library collection does
16 not contain explicit sexual material.

17 **SECTION 3. APPLICATION.** This Act applies to any book inventory or collection maintained
18 by a public library after March 31, 2024.