

**FIRST ENGROSSMENT  
with House Amendments  
ENGROSSED SENATE BILL NO. 2360**

Introduced by

Senators Boehm, Beard, Hogue, Paulson, Wobbema

Representative Kasper

1 A BILL for an Act to create and enact a new subsection to section 12.1-27.1-01 and a new  
2 section to chapter 12.1-27.1 of the North Dakota Century Code, relating to the definition of a  
3 public library and required safety policies and technology protection measures; to amend and  
4 reenact subsection 5 of section 12.1-27.1-01, sections 12.1-27.1-03.1, and 12.1-27.1-11 of the  
5 North Dakota Century Code, relating to obscenity control; to provide a penalty; and to provide  
6 for application.

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

8 **SECTION 1. AMENDMENT.** Subsection 5 of section 12.1-27.1-01 of the North Dakota  
9 Century Code is amended and reenacted as follows:

- 10 5. As used in this chapter, the terms "obscene material" and "obscene performance"  
11 mean material or a performance which:
- 12 a. Taken as a whole, the average person, applying contemporary North Dakota  
13 standards, would find predominantly appeals to a prurient interest;
  - 14 b. Depicts or describes in a patently offensive manner sexual conduct, whether  
15 normal or perverted; and
  - 16 c. Taken as a whole, the reasonable person would find lacking in serious literary,  
17 artistic, political, or scientific value.

18 Whether material or a performance is obscene must be judged with reference to  
19 ordinary reasonable adults, unless it appears from the character of the material or the  
20 circumstances of its dissemination that the material or performance is designed for  
21 minors or other specially susceptible audience, in which case the material or  
22 performance must be judged with reference to that type of audience.

23 **SECTION 2.** A new subsection to section 12.1-27.1-01 of the North Dakota Century Code is  
24 created and enacted as follows:

1           As used in this chapter, the term "public library" means a library containing collections  
2           of books or periodicals for the general population to read, borrow, or refer to which is  
3           supported with funds derived from taxation.

4           **SECTION 3. AMENDMENT.** Section 12.1-27.1-03.1 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **12.1-27.1-03.1. Objectionable materials or performance - Display to minors -**  
7 **Definitions - Penalty.**

8           1. A person is guilty of a class B misdemeanor if ~~he~~the person willfully displays at  
9 newsstands or any other business establishment frequented by minors, or where  
10 minors are or may be invited as a part of the general public, any photograph, book,  
11 paperback book, pamphlet, or magazine, the exposed cover or available content of  
12 which either contains explicit sexual material that is harmful to minors or exploits, is  
13 devoted to, or is principally made up of depictions of nude or partially denuded human  
14 figures posed or presented in a manner to exploit sex, lust, or perversion for  
15 commercial gain.

16           2. As used in this section:

17           a. "Explicit sexual material" means any material which:

18                   (1) Taken as a whole, appeals to the prurient interest of minors;

19                   (2) Is patently offensive under prevailing standards in the adult community in

20                           North Dakota as a whole with respect to what is suitable material for minors;

21                           and

22                   (3) Taken as a whole, lacks serious literary, artistic, political, or scientific value  
23                           for minors.

24           b. "Nude or partially denuded human figures" means less than completely and  
25 opaquely covered human genitals, pubic regions, female breasts or a female  
26 breast, if the breast or breasts are exposed below a point immediately above the  
27 top of the areola, or human buttocks; and includes human male genitals in a  
28 discernibly turgid state even if completely and opaquely covered.

29           ~~b-c.~~ "Where minors are or may be invited as a part of the general public" includes any  
30 public roadway ~~or~~, public walkway, public library, or public school library.



1           school district, state agency, or public library shall consider the provider's act of  
2           noncompliance a breach of contract.

3           5. A public school library and a public library shall submit an aggregate written report to  
4           the legislative management no later than December first of each year regarding any  
5           issues related to provider compliance with technology protection measures required by  
6           subsection 2.

7           6. An employee of a school district, state agency, or public library who willfully exposes  
8           explicit sexual material to a minor in violation of this section is guilty of a class B  
9           misdemeanor.

10          7. As used in this section, the term "public library" or "state agency" does not include the  
11          state library.

12          **SECTION 6. APPLICATION.** Sections 1, 3, and 4 of this Act do not apply to the state  
13          library.