

2023 Regular Session

HOUSE BILL NO. 102

BY REPRESENTATIVES EMERSON, AMEDEE, AND HODGES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LIBRARIES: Provides relative to access to certain materials in public libraries

1 AN ACT

2 To enact R.S. 25:225, relative to libraries; to provide relative to the adoption of certain
3 library policies; to provide relative to a minor's access to sexually explicit materials;
4 to provide for immunity; to provide relative to payments of certain expenses by
5 governing authorities and consideration of certain applications by the State Bond
6 Commission; to provide for definitions, terms, conditions, and procedures; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 25:225 is hereby enacted to read as follows:

10 §225. Library policy; definitions; minor's access to sexually explicit materials;
11 immunity; penalties

12 A. The legislature recognizes the fundamental right of parents to make
13 decisions as to the care, custody, and control of their children. This fundamental
14 right includes the right to decide the upbringing and education of children under their
15 control. Parents have the right to guide and direct the reading, listening, and viewing
16 choices of their minor children. Many libraries lack adequate policies addressing the
17 access of minors to sexually explicit materials. In furtherance of this fundamental
18 right, it is the intent of the legislature to require libraries to adopt and implement
19 policy language to limit the access of minors to sexually explicit materials.

1 B. As used in this Section, the following terms shall have the following
2 meanings:

3 (1) "Digital content" means any book, e-book, audiobook, video book, essay,
4 newspaper, magazine, film, or any other library material that is provided in a digital
5 format.

6 (2) "Library patron" means an individual who is eligible to receive a library
7 card from the parish or municipal library.

8 (3) "Sexual conduct" means any of the following:

9 (a) Masturbation or lewd exhibition, actual, simulated, or animated, of the
10 genitals, pubic hair, anus, vulva, or female breast nipples.

11 (b) Sadoomasochistic abuse, meaning actual, simulated, or animated,
12 flagellation, or torture by or upon a person who is nude or clad in undergarments or
13 in a costume that reveals the pubic hair, anus, vulva, genitals, or female breast
14 nipples, or in the condition of being fettered, bound, or otherwise physically
15 restrained, on the part of one so clothed.

16 (c) Actual, simulated, or animated touching, caressing, or fondling of, or
17 other similar physical contact with a pubic area, anus, female breast nipple, covered
18 or exposed, whether alone or between humans, animals, or a human and an animal,
19 of the same or opposite sex, in an act of apparent sexual stimulation or gratification.

20 (d) Actual, simulated, or animated stimulation of a human genital organ by
21 any device whether or not the device is designed, manufactured, or marketed for that
22 purpose.

23 (e) Actual, simulated, or animated ultimate sexual acts, whether between
24 human beings, animals, or a human being and an animal.

25 (4) "Sexually explicit material" means textual, visual, or audio material,
26 produced in any medium, that depicts or describes sexual conduct.

27 C.(1) No later than January 1, 2024, each library established pursuant to the
28 provisions of this Part or pursuant to the authority of a home rule charter as provided

1 in Article VI, Section 5 of the Constitution of Louisiana shall adopt and implement
2 a policy to limit the access of minors to sexually explicit material.

3 (2) The policy shall include, at a minimum, all of the following:

4 (a) A requirement that community standards for the population served by the
5 library be considered when acquiring library material through donation or purchase.

6 (b) A library card system that allows a parent or guardian to select a library
7 card that indicates whether a minor is permitted to check out sexually explicit
8 material physically available in the library. The provision of this Subparagraph shall
9 be satisfied by either of the following:

10 (i) Allowing a parent or guardian to select a library card that restricts a minor
11 from checking out any library material from a collection that contains sexually
12 explicit material.

13 (ii) Allowing a parent or guardian to select a library card that restricts a
14 minor from checking out any library material that the library board of control has,
15 through majority vote in an open meeting, identified as sexually explicit material.

16 (c) A library card system that allows a parent or guardian to select a library
17 card that indicates whether a minor is permitted to check out digital content. The
18 library shall list in the library's policy each digital content source accessible by a
19 minor that contains sexually explicit material.

20 (d) A procedure that allows a library patron to request the reconsideration
21 of whether a library material should be included in a library collection. The
22 procedure shall, at a minimum, include all of the following items:

23 (i) A process to review a reconsideration request made by a library patron.
24 The review process shall include but is not limited to a written determination
25 approving or denying the request, notification to the library patron making the
26 request of the written determination, and the process to appeal the determination to
27 the library board of control.

28 (ii) A requirement that a request for reconsideration of a library material that
29 may include sexually explicit material be reviewed by the library board of control.

1 The library board of control shall determine whether the library material meets the
2 definition of sexually explicit material by majority vote in an open meeting.

3 (3) The adoption of the policy required by this Subsection may be satisfied
4 by amendment to an existing library policy.

5 D. Nothing in this Section shall be construed to impose liability on an
6 employee or agent of a library.

7 E.(1) The governing authority of a parish or municipality with a library that
8 fails to adopt and implement a policy required by Subsection C of this Section may
9 withhold, during the period of noncompliance, the payments required by R.S.
10 25:220.

11 (2) The State Bond Commission shall not consider any application
12 authorizing the incurrence of debt or any application authorizing the levy of any tax
13 where the proceeds of the debt or tax directly benefit a library that fails to adopt and
14 implement the policy required by Subsection B of this Section until the library
15 adopts and implements the policy.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 102 Original

2023 Regular Session

Emerson

Abstract: Requires parish and municipal libraries to adopt and implement a policy relative to a minor's access to sexually explicit materials.

Present law authorizes parish and municipal governing authorities to create, by ordinance, public libraries. Requires parish and municipal governing authorities to create public libraries when petitioned by not less than 25% of the duly qualified property taxpayers of the respective parish or municipality.

Proposed law requires each library established pursuant to present law or pursuant to a home rule charter adopted after the adoption of the 1974 state constitution (Art. VI, Sec. 5) to adopt and implement a policy to limit a minor's access to sexually explicit material.

Proposed law requires the policy to include, at a minimum, the following:

- (1) A requirement that community standards for the population served by the library be considered when acquiring library material through donation or purchase.

- (2) A library card system that allows a parent or guardian to select a card that indicates whether a minor is permitted to check out sexually explicit material physically available in the library. This may be accomplished by either:
 - (a) Allowing a parent or guardian to select a library card that restricts a minor from checking out any library material from a collection that contains sexually explicit material.
 - (b) Allowing a parent or guardian to select a library card that restricts a minor from checking out any library material that the library board of control has, through majority vote in an open meeting, identified as sexually explicit material.
- (3) A library card system that allows a parent or guardian to choose a library card that indicates whether a minor is permitted to check out digital content. The library is required to list in the library policy each digital content source accessible by minors that contains sexually explicit material.
- (4) A procedure that allows a library patron to request the reconsideration of whether a library material should be included in a library collection. The procedure shall include, at a minimum, the following:
 - (a) A process to review a reconsideration request. This process shall include but is not limited to a written determination approving or denying the request, a process to notify the library patron making the request of the written determination, and the process to appeal the determination to the library board of control.
 - (b) A requirement that a request for reconsideration of a library material that may include sexually explicit material be reviewed by the library board of control.

Proposed law provides for immunity of employees and agents of the library.

Proposed law allows a parish or municipality governing authority to withhold payments for maintenance costs and other expenses from a library that fails to adopt and implement the policy required by proposed law.

Proposed law prohibits the bond commission from considering any application authorizing the incurrence of debt or any application authorizing the levy of any tax where the proceeds of the debt or tax directly benefit any library that fails to adopt and implement the policy required by proposed law until the library adopts and implements the policy required by proposed law.

(Adds R.S. 25:225)