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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

RELATING TO LIBRARIES -- THE FREEDOM TO READ ACT

Introduced By: Senators McKenney, Bissaillon, Gallo, Lauria, Gu, Lawson, Britto,  
Mack, Euer, and DiMario  
Date Introduced: February 13, 2025  
Referred To: Senate Education

It is enacted by the General Assembly as follows:

- 1
- SECTION 1. Title 29 of the General Laws entitled "LIBRARIES" is hereby amended by
- 2
- adding thereto the following chapter:
- 3
- CHAPTER 9
- 4
- THE FREEDOM TO READ ACT
- 5
- 29-9-1. Short Title.**
- 6
- This chapter shall be known and may be cited as the “The Freedom to Read Act”.
- 7
- 29-9-2. Definitions.**
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- As used in this chapter:
- 9
- (1) “Censor” or “censorship” means to suppress, restrict, remove, or prohibit acquiring,
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- library material on the basis of disagreement with the material’s origin, background, views, ideas,
- 11
- concepts or identity of those contributing to its creation including, but not limited to, race, gender,
- 12
- sexuality, religious or political views, but excludes content that is deemed developmentally
- 13
- inappropriate.
- 14
- (2) "Developmentally inappropriate" means:
- 15
- (i) That the average person, applying contemporary standards, would find that the work,
- 16
- taken as a whole, appeals to the prurient interest;
- 17
- (ii) That the work, taken as a whole, clearly depicts or describes, in a patently offensive
- 18
- way, sexual conduct; and
- 19
- (iii) That the work, taken as a whole, clearly lacks serious literary, artistic, educational,

1 political, or scientific value.

2 (3) “Government actor” means a member of a government body with voting authority.

3 (4) “Government body” means any government decision-making body or governing body,

4 such as a library board or school board, that exercises authority over the purchasing, selection,

5 curation, and location of library materials at the state or municipal levels, including a library board

6 of trustees as provided for in § 29-4-5 and a school committee as provided for in § 16-2-9.

7 (5) “Individual with a vested interest in the public library” means any resident who is

8 served by the public library and resides in the municipality where the library is situated.

9 (6) “Individual with a vested interest in the school library” means any teaching staff

10 member employed by the school district, any parent or guardian of a student enrolled in the school

11 at the time the removal form is filed, and any student enrolled in the school at the time the removal

12 form is filed.

13 (7) “Library material” means any material including, but not limited to, books, videos,

14 subscription or locally curated databases, audio materials, government documents, interactive

15 applications and software, and all other similar materials, whether tangible or in electronic form

16 belonging to, on loan to, or otherwise in the custody of the public library or other material not

17 required as part of classroom instruction.

18 (8) “Librarian” means a professionally trained employee who is responsible for the

19 purchase, selection, curation, removal, and display of library materials.

20 (9) “Public library” means a library in a city or town that has been designated by the city

21 or town council or town financial meeting as a library to provide library services to all individuals

22 residing in the city or town.

23 (10) “Reconsideration” means a request to reclassify, move to a different section of the

24 library, or remove an item in the library's collection.

25 **29-9-3. Public library collection policy.**

26 (a) In addition to the duties prescribed in § 29-3.1-7, the chief of library services shall

27 establish a model policy on the curation of library material within a public library, that shall be

28 adopted by the library board of trustees.

29 (b) The model policy shall, at a minimum:

30 (1) Recognize that public libraries serve as centers for voluntary inquiry and the

31 dissemination of information and ideas;

32 (2) Provide protection against censorship of library material;

33 (3) Provide standards for the selection and curation of library material, by the librarian,

34 while also recognizing that library material should be provided for the interest, information, and

1 enlightenment of all people, and should present a wide range of points of view; and

2 (4) Establish criteria and a procedure based on professional standards for a librarian to  
3 review and the deaccession of library material within a public library on an ongoing basis, which  
4 shall include, but not be limited to, the library material's relevance, the condition of the library  
5 material, the availability of duplicates, the availability of more recent material, and the continued  
6 demand for the library material.

7 (c) The model policy shall be updated as the chief of library services deems necessary.

8 (d) In the event a public library has a policy that complies with the requirements of  
9 subsection (b) of this section, the library shall not be required to take further action.

10 (e) Nothing in this section shall be construed to require a librarian to purchase, or otherwise  
11 acquire a particular library material for the library.

12 (f) In addition to the duties prescribed in § 29-3.1-7, the chief of library services shall  
13 establish a model policy creating a procedure regarding a request for reconsideration of library  
14 material in a public library, that shall be adopted by the library board of trustees.

15 (g) The model policy shall, at a minimum require:

16 (1) The creation of a request for reconsideration form, based on a model form established  
17 by the chief of library services, that shall be submitted by an individual with a vested interest in the  
18 public library in order to initiate the review of specific library material;

19 (2) An individual with a vested interest in the public library requesting that library material  
20 be reconsidered shall review the material as a whole and not choose selective passages out of  
21 context;

22 (3) A library material that is the subject of a request for reconsideration shall not be  
23 removed from its location within the library and shall remain available to reserve, check out, or  
24 access while the material is being reviewed;

25 (4) The reconsideration process shall include the formal participation of at least one  
26 librarian employed by the public library where the form was submitted; and

27 (5) An appeals process for any decision made regarding reconsideration in accordance with  
28 the standards established in subsection (b) of this section.

29 (h) In the event a public library has a policy that complies with the requirements of  
30 subsection (g) of this section, the library shall not be required to take further action.

31 (i) A substantive rationale for restricting or removing library material shall be  
32 memorialized by the governing body in writing and made publicly available.

33 (j) Any staff member of a public library, including a librarian employed by a public library,  
34 shall be immune from civil and criminal liability arising from good faith actions performed

1 pursuant to this chapter.

2 (k) A government body shall not reduce funding for a public library due to the library's  
3 compliance with the provisions of this section.

4 **29-9-4. School library collection policy.**

5 (a) Pursuant to the duties prescribed in § 16-1-5(7), the commissioner of elementary and  
6 secondary education, in collaboration with the chief of library services, shall establish a model  
7 policy on the curation of library material within a school library, that shall be adopted by the school  
8 committee.

9 (b) The model policy shall, at a minimum:

10 (1) Recognize that school libraries serve as centers for voluntary inquiry and the  
11 dissemination of information and ideas;

12 (2) Provide protection against censorship of library material;

13 (3) Provide standards for the selection and curation of library material while also  
14 recognizing that the library material should be provided for the interest, information, and  
15 enlightenment of all students and should present a wide range of points of view;

16 (4) Establish criteria and a procedure based on professional standards for a librarian to  
17 review and the deaccession of library material within a school library on a regular basis, which  
18 shall include, but not be limited to, the library material's relevance; the condition of the library  
19 material; the availability of duplicates; and the continued demand for the library material.

20 (5) Acknowledge that a certified school librarian is professionally trained to curate and  
21 develop the school library collection that provides students with access to the widest array of  
22 developmentally relevant library material.

23 (c) The model policy shall be updated as the commissioner of elementary and secondary  
24 education and chief of library services deem necessary.

25 (d) In the event a school district has a policy that complies with the requirements of  
26 subsection (b) of this section, the school committee shall not be required to take further action.

27 (e) Librarians employed at a school library shall have discretion in selecting, purchasing,  
28 or acquiring library material for inclusion in the school library, following the policy approved by  
29 the school committee. Nothing in this section shall be construed to require a librarian to purchase,  
30 or otherwise acquire a particular library material for a school library.

31 (f) Nothing in this section shall be construed to restrict a school committee's authority to  
32 select textbooks and school supplies related to the curriculum.

33 (g) Pursuant to the duties prescribed in § 16-1-5(7), the commissioner of elementary and  
34 secondary education shall establish, in collaboration with the chief of library services, a model

policy creating a procedure regarding a request for reconsideration of library material within a school library, that shall be adopted by the school committee.

(h) The model policy shall, at a minimum require:

(1) The creation of a request for reconsideration form, based on a model form developed by the commissioner of elementary and secondary education and chief of library services, that is submitted by an individual with a vested interest to the principal of the school in which the library material is challenged to initiate a review of the material;

(2) An individual with a vested interest in the school library requesting that library material be reconsidered shall review the material as a whole and not choose selective passages out of context;

(3) Library material that is the subject of a request for reconsideration shall not be removed from its location within the library and shall remain available to reserve, check out, or access while the material is being reviewed;

(4) The reconsideration process shall include the formal participation of at least one certified librarian employed by the school where the form was submitted; and

(5) An appeals process for any decision made regarding reconsideration in accordance with the standards established in subsection (b) of this section.

(i) In the event a school committee has a policy that complies with the requirements of subsection (h) of this section, the school committee shall not be required to take further action.

(j) Any staff member of a school library, including a librarian employed by a school, shall be immune from civil and criminal liability arising from good faith actions performed pursuant to this chapter.

#### **29-9-5. Private right of action.**

(a) An anti-censorship claim is established under this section when a government body:

(1) Censors or orders others to censor library materials; or

(2) Imposes discipline, threatens to impose discipline, or terminates a school or library employee for refusing to censor library materials.

(b) A librarian who has been subjected to discipline, termination, or threats of discipline or termination for refusing to censor library materials may bring an anti-censorship action in any court of competent jurisdiction for damages, including punitive damages, and for declaratory and injunctive relief and such other remedies as may be appropriate against a government body.

(c) A student, or their parent or guardian, may bring an anti-censorship action in any court of competent jurisdiction for declaratory and injunctive relief and damages against a government body that enforces censorship of library materials. Damages shall be a minimum of five hundred

1 dollars (\$500) per censored work, but shall not exceed five thousand dollars (\$5,000) per censored  
2 work.

3 (1) A student, or the students parent(s) or guardian(s), may only challenge censorship  
4 within a school that the student attends.

5 (d) An author, bookseller, or publisher whose library materials have been subjected to  
6 censorship may bring an action in any court of competent jurisdiction for declaratory and injunctive  
7 relief and damages against any government body that enforces censorship of library materials.  
8 Damages shall be a minimum of five hundred dollars (\$500) per censored work, but shall not  
9 exceed five thousand dollars (\$5,000) per censored work.

10 (e) In any anti-censorship action, the court shall grant a prevailing plaintiff reasonable  
11 attorneys' fees and related costs, including expert fees.

12 (f) A government body may not use funds that would otherwise have been used by a library  
13 to pay damages, attorneys' fees, or other related costs.

14 (g) With regards to an affirmative defense, a government actor, or member thereof, acting  
15 under direct compulsion from binding state or federal government authority shall not be liable for  
16 censorship.

17 (h) With regards to a statute of limitations, any action or proceeding to enforce this section  
18 shall be commenced no later than three (3) years after the date on which the violation of this section  
19 is committed.

20 SECTION 2. Sections 11-31-1 and 11-31-10 of the General Laws in Chapter 11-31 entitled  
21 "Obscene and Objectionable Publications and Shows" are hereby amended to read as follows:

22 **11-31-1. Circulation of obscene publications and shows.**

23 (a) Every person who willfully or knowingly promotes for the purpose of commercial gain  
24 within the community any show, motion picture, performance, photograph, book, magazine, or  
25 other material which is obscene shall, upon conviction, be punished by a fine of not less than one  
26 hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by imprisonment for not  
27 more than two (2) years, or both.

28 (b) For the purpose of this section:

29 (1) In determining whether or not a show, motion picture, performance, photograph, book,  
30 magazine, or other material is obscene the trier of the fact must find:

31 (i) That the average person, applying contemporary community standards, would find that  
32 the work, taken as a whole, appeals to the prurient interest;

33 (ii) That the work taken as a whole, clearly depicts or describes, in a patently offensive  
34 way, sexual conduct specifically defined by this chapter; and

1 (iii) That the work, taken as a whole, clearly lacks serious literary, artistic, educational,  
2 political, or scientific value.

3 (2) “Community standards” means the geographical area of the state of Rhode Island.

4 (3) “Knowingly” means having knowledge of the character and content of the material or  
5 failure on notice to exercise reasonable inspection which would disclose the content and character  
6 of it.

7 (4) “Material” means anything tangible which is capable of being used or adapted to arouse  
8 prurient interest through the medium of reading, or observation.

9 (5) “Patently offensive” means so offensive on its face as to affront current standards of  
10 decency.

11 (6) “Performance” means any play, motion picture, dance, or other exhibition performed  
12 before an audience.

13 (7) “Promote” means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer,  
14 transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree  
15 to do it for resale.

16 (8) “Sexual conduct” means:

17 (i) An act of sexual intercourse, normal or perverted, actual or simulated, including genital-  
18 genital, anal-genital, or oral-genital intercourse, whether between human beings or between a  
19 human being and an animal.

20 (ii) Sado-masochistic abuse, meaning flagellation or torture by or upon a person in an act  
21 of apparent sexual stimulation or gratification.

22 (iii) Masturbation, excretory functions, and lewd exhibitions of the genitals.

23 (9) “Standards of decency” means community standards of decency.

24 (c) If any of the depictions and descriptions of sexual conduct described in this section are  
25 declared by a court of competent jurisdiction to be unlawfully included because the depictions or  
26 descriptions are constitutionally protected or for any other reason, that declaration shall not  
27 invalidate this chapter as to other sexual conduct included in this chapter.

28 **11-31-10. Sale or exhibition to minors of indecent publications, pictures, or articles.**

29 (a) Every person who shall willfully or knowingly engage in the business of selling,  
30 lending, giving away, showing, advertising for sale, or distributing to any person under the age of  
31 eighteen (18) years, has in his or her possession with intent to engage in that business or to  
32 otherwise offer for sale or commercial distribution to any person under the age of eighteen (18)  
33 years, or who shall display at newsstands or any other business establishment frequented by persons  
34 under the age of eighteen (18) years or where persons under the age of eighteen (18) years are or

1 may be invited as a part of the general public, any motion picture, any still picture, photograph, or  
2 any book, pocket book, pamphlet, or magazine of which the cover or content consists of explicit  
3 representations of “sexual conduct”, “sexual excitement”, “nudity” and which is indecent for  
4 minors or which is predominantly made up of descriptions of “sexual conduct”, “sexual  
5 excitement”, “nudity” and which is indecent, shall, upon conviction, be punished by a fine of not  
6 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by  
7 imprisonment for not more than two (2) years, or both.

8 (b) As used in this section, the following words have the following meaning:

9 (1) “Indecent for minors” means:

10 (i) Appealing to the prurient interest in sex of minors;

11 (ii) ~~Patently~~ Taken as a whole is patently offensive to prevailing standards in the adult  
12 community with respect to what is suitable material for minors; and

13 (iii) ~~Lacking~~ Clearly lacking serious literary, artistic, educational, political, or scientific  
14 value for minors;

15 (2) “Knowingly” means having knowledge of the character and content of the publication  
16 or failure on notice to exercise reasonable inspection which would disclose its content and  
17 character;

18 (3) “Nudity” means less than completely and opaquely covered; human genitals, pubic  
19 regions, buttock, and female breast below a point immediately above the top of the areola;

20 (4) “Sexual conduct” means act of human masturbation, sexual intercourse, sodomy,  
21 fondling, or other erotic touching of human genitals, pubic region, buttock, or female breasts; and

22 (5) “Sexual excitement” means human genitals in a state of sexual stimulation or arousal.

23 SECTION 3. Chapter 11-31 of the General Laws entitled "Obscene and Objectionable  
24 Publications and Shows" is hereby amended by adding thereto the following section:

25 **11-31-16. Affirmative defense.**

26 (a) It is in the interest of the state to protect the financial resources of libraries and  
27 educational institutions from being expended in litigation and to permit these resources to be used  
28 to the greatest extent possible for fulfilling the essential purpose of libraries and educational  
29 institutions.

30 (b) In any prosecution arising under §§ 11-31-1 or 11-31-10, it shall be an affirmative  
31 defense that the defendant was a bona fide school, museum, or public library, or was a person acting  
32 in the course of employment as an employee or official of such an organization.

33 (c) If the charges are dismissed or the defendant is acquitted in any prosecution arising  
34 under §§ 11-31-1 or 11-31-10, the defendant, if the affirmative defense established in this section

1     was asserted, shall be entitled to an award of reasonable attorneys' fees and costs.

2             SECTION 4. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO LIBRARIES -- THE FREEDOM TO READ ACT

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- 1           This act would promote the free expression and free access of information by prohibiting  
2 the censorship of library materials. This act would require the creation of a model policy relative  
3 to library material within a public library and school library.  
4           This act would take effect upon passage.

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