

ARKANSAS SENATE
94th General Assembly - Regular Session, 2023
Amendment Form

Subtitle of Senate Bill No. 81

TO AMEND THE LAW CONCERNING OBSCENE MATERIALS; TO CREATE THE OFFENSE OF
FURNISHING A HARMFUL ITEM TO A MINOR; AND TO AMEND THE LAW CONCERNING OBSCENE
MATERIALS LOANED BY A LIBRARY.

Amendment No. 1 to Senate Bill 81

Amend Senate Bill No. 81 as originally introduced:

Add Senator Stone as a cosponsor of the bill

AND

Add Representative Bentley as a cosponsor of the bill

AND

Page 1, line 9, delete "CONCERNING" and substitute "CONCERNING LIBRARIES AND
OBSCENE MATERIALS MADE AVAILABLE TO MINORS; TO AMEND THE LAW CONCERNING"

AND

Page 1, line 13, delete "LIBRARY;" and substitute "LIBRARY; TO ALLOW A PARENT
OR LEGAL GUARDIAN OF A MINOR TO ACCESS THE MINOR'S LIBRARY RECORDS;"

AND

Page 1, line 16, delete "MATERIALS;" and substitute "MATERIALS; TO AMEND THE
LAW CONCERNING THE PROCESS FOR CHALLENGING MATERIALS INCLUDED IN A LIBRARY;"

AND

Delete the subtitle in its entirety, and substitute the following:

"TO AMEND THE LAW CONCERNING LIBRARIES
AND OBSCENE MATERIALS; TO CREATE THE
OFFENSE OF FURNISHING A HARMFUL ITEM TO A
MINOR; AND TO AMEND THE LAW CONCERNING
OBSCENE MATERIALS LOANED BY A LIBRARY."



AND

Page 1, line 33, delete "that quality of an item describing" and substitute "the same as defined in § 5-68-501;"

AND

Page 1, delete lines 34 through 36

AND

Page 2, delete lines 1 through 13

AND

Page 2, delete lines 23 and 24, and substitute the following:
"describes nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, as those terms are defined in § 5-68-501."

AND

Page 2, delete lines 34 and 35, and substitute the following:
"nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, as those terms are defined in § 5-68-501, to the public or an audience of one (1)"

AND

Page 3, delete lines 21 through 29

AND

Page 3, line 34, delete "~~library,~~" and substitute "~~library,~~"

AND

Delete SECTION 4 of the bill in its entirety

AND

Page 4, delete line 21, and substitute the following:
"subchapter, upon conviction is guilty of a Class A misdemeanor.

SECTION 4. Arkansas Code § 6-25-105 is amended to read as follows:
6-25-105. Establishment of guidelines for selection, removal, and retention of materials.

(a) Media centers shall have written policies to establish guidelines for the selection, removal, and retention of physical materials that are available to the public.

(b) The school district shall have a written policy for addressing challenged material that is physically present in the library and available to the public and meets the requirements stated in subsection (c) of this section.

(c) A written policy adopted by a school district under subsection (b) of this section shall provide, at a minimum, the following:

(1) A parent or guardian of a student affected by the material to be challenged or an employee of the school district may challenge the appropriateness of material available in the school district's media center;

(2) The school district shall decide if material being challenged shall remain available throughout the challenge process;

(3) Before a person can file a challenge, the person shall request a conference through the principal's office with a licensed media center employee;

(4) Before a conference under subdivision (c)(3) of this section occurs, the school district shall provide a copy of the following to a person who requests a conference under subdivision (c)(3) of this section:

(A) The written policy adopted by a school district under subsection (b) of this section; and

(B) A form or other method by which a person may request a reconsideration of the appropriateness of the material being challenged;

(5) After the conference requested under subdivision (c)(3) of this section occurs, if the person who requested the conference wants to formally challenge the appropriateness of the material that was the subject of the conference, the person shall complete and submit the request for reconsideration using the form or other method provided under subdivision (c)(4)(B) of this section to challenge the material that was the subject of the conference;

(6)(A) In conducting a review of material being challenged, the principal of the school district shall select a committee of five (5) or seven (7) licensed personnel.

(B) The principal or his or her designee shall be a member of the committee and may serve as the chair of the committee established under subdivision (c)(6)(A) of this section.

(C) At least one (1) member of the committee established under subdivision (c)(6)(A) of this section shall be a media specialist.

(D) The committee members who are not the principal or a media specialist shall be licensed personnel with curriculum knowledge appropriate for the material being challenged and be representative of diverse viewpoints;

(7)(A) The committee established under subdivision (c)(6)(A) of this section shall determine if the material being challenged meets the criteria of selection.

(B) Material being challenged:

(i) Shall not be withdrawn solely for the viewpoints expressed within the material; and

(ii) Shall be reviewed in its entirety and shall not have selected portions taken out of context;

(8) The school district shall convene a meeting of the committee established under subdivision (c)(6)(A) of this section after allowing a reasonable time for the committee members to adequately review the material

being challenged and the request submitted under subdivision (c)(5) of this section by the person challenging the appropriateness of the material;

(9) The committee established under subdivision (c)(6)(A) of this section shall allow the person who submitted the request under subdivision (c)(5) of this section to present his or her request to the committee;

(10) After hearing from the person who submitted the request under subdivision (c)(5) of this section, the committee established under subdivision (c)(6)(A) of this section shall meet to discuss the material being challenged;

(11)(A) The committee established under subdivision (c)(6)(A) of this section shall vote to determine whether the material being challenged shall be removed from the media center's collection.

(B) A member of the committee established under subdivision (c)(6)(A) of this section who votes with the majority under subdivision (c)(11)(A) of this section shall write a summary of the reasons for the majority's decision.

(C) Notice of the committee's decision under subdivision (c)(11)(A) of this section and the summary prepared under subdivision (c)(11)(B) of this section shall be given by hand or by certified mail to the person who submitted the request under subdivision (c)(5) of this section;

(12)(A) If the committee established under subdivision (c)(6)(A) of this section decides not to remove the material being challenged, the person who submitted the request under subdivision (c)(5) of this section may appeal the committee's decision to the board of directors for the school district by filing a written appeal to the superintendent within five (5) working days of the committee's decision or written receipt of the committee's decision.

(B)(i) If a person appeals the decision of a committee under this subdivision (c)(12), the superintendent shall present the material being challenged, the request submitted by the person under subdivision (c)(5) of this section, the committee's decision under subdivision (c)(11)(A) of this section, and the summary prepared under subdivision (c)(11)(B) of this section to the board of directors within fifteen (15) days of the committee's decision.

(ii) In addition to the information required to be provided under subdivision (c)(12)(B)(i) of this section, the superintendent may also include the administration's recommendation regarding the appeal submitted under this subdivision (c)(12).

(C)(i) The members of the board of directors shall review the information submitted to them under this subdivision (c)(12) and shall make a decision on the appeal within thirty (30) days of receiving the information.

(ii) The decision of a board of directors under subdivision (c)(12)(C)(i) of this section is final; and

(13) A meeting held regarding a challenge or an appeal submitted under a written policy adopted by a school district under subsection (b) of this section shall be a public meeting and the records submitted and considered at a meeting shall be public records under the Freedom of Information Act of 1967, § 25-19-101 et seq.

SECTION 5. Arkansas Code Title 13, Chapter 2, Subchapter 1, is amended to add an additional section to read as follows:

13-2-106. Establishment of guidelines for selection, removal, and retention of materials.

(a) Each county or municipal library shall have a written policy to establish guidelines for the selection, removal, and retention of physical materials that are available to the public.

(b) A county or municipal library shall have a written policy for addressing challenged material that is physically present in the library and available to the public and meets the requirements stated in subsection (c) of this section.

(c) A written policy adopted by a county or municipal library under subsection (b) of this section shall provide, at a minimum, the following:

(1) A person affected by the material to be challenged or an employee of the county or municipal library may challenge the appropriateness of material available in the county or municipal library;

(2) The county or municipal library shall decide if material being challenged shall remain available throughout the challenge process;

(3) Before a person can file a challenge, the person shall request a meeting with the librarian of the county or municipal library;

(4) Before a meeting under subdivision (c)(3) of this section occurs, the county or municipal library shall provide a copy of the following to a person who requests a meeting under subdivision (c)(3) of this section:

(A) The written policy adopted by the county or municipal library under subsection (b) of this section; and

(B) A form or other method by which a person may request a reconsideration of the appropriateness of the material being challenged;

(5) After the meeting requested under subdivision (c)(3) of this section occurs, if the person who requested the meeting wants to formally challenge the appropriateness of the material that was the subject of the meeting, the person shall complete and submit the request for reconsideration using the form or other method provided under subdivision (c)(4)(B) of this section to challenge the material that was the subject of the meeting;

(6)(A) In conducting a review of material being challenged, the librarian of the county or municipal library shall select a committee of five (5) or seven (7) library personnel.

(B) The librarian or his or her designee shall be a member of the committee and may serve as the chair of the committee established under subdivision (c)(6)(A) of this section.

(C) The committee members who are not the librarian shall have knowledge appropriate for the material being challenged and be representative of diverse viewpoints;

(7)(A) The committee established under subdivision (c)(6)(A) of this section shall determine if the material being challenged meets the criteria of selection.

(B) Material being challenged:

(i) Shall not be withdrawn solely for the viewpoints expressed within the material; and

(ii) Shall be reviewed in its entirety and shall not have selected portions taken out of context;

(8) The county or municipal library shall convene a meeting of the committee established under subdivision (c)(6)(A) of this section after allowing a reasonable time for the committee members to adequately review the material being challenged and the request submitted under subdivision (c)(5) of this section by the person challenging the appropriateness of the material;

(9) The committee established under subdivision (c)(6)(A) of this section shall allow the person who submitted the request under subdivision (c)(5) of this section to present his or her request to the committee;

(10) After hearing from the person who submitted the request under subdivision (c)(5) of this section, the committee established under subdivision (c)(6)(A) of this section shall meet to discuss the material being challenged;

(11)(A) The committee established under subdivision (c)(6)(A) of this section shall vote to determine whether the material being challenged shall be removed from the library's collection.

(B) A member of the committee established under subdivision (c)(6)(A) of this section who votes with the majority under subdivision (c)(11)(A) of this section shall write a summary of the reasons for the majority's decision.

(C) Notice of the committee's decision under subdivision (c)(11)(A) of this section and the summary prepared under subdivision (c)(11)(B) of this section shall be given by hand or by certified mail to the person who submitted the request under subdivision (c)(5) of this section;

(12)(A) If the committee established under subdivision (c)(6)(A) of this section decides not to remove the material being challenged, the person who submitted the request under subdivision (c)(5) of this section may appeal the committee's decision to the governing body of the county or city by filing a written appeal to the executive head of the governing body of the county or city within five (5) working days of the committee's decision or written receipt of the committee's decision.

(B)(i) If a person appeals the decision of a committee under this subdivision (c)(12), the executive head of the county or city shall present the material being challenged, the request submitted by the person under subdivision (c)(5) of this section, the committee's decision under subdivision (c)(11)(A) of this section, and the summary prepared under subdivision (c)(11)(B) of this section to the governing body of the county or city within fifteen (15) days of the committee's decision.

(ii) In addition to the information required to be provided under subdivision (c)(12)(B)(i) of this section, the executive head of the county or city may also include his or her recommendation regarding the appeal submitted under this subdivision (c)(12).

(C)(i) The members of the governing body of the county or city shall review the information submitted to them under this subdivision (c)(12) and shall make a decision on the appeal within thirty (30) days of receiving the information.

(ii) The decision of a governing body of a county or city under subdivision (c)(12)(C)(i) of this section is final; and

(13) A meeting held regarding a challenge or an appeal submitted under a written policy adopted by a county or city library under subsection

(b) of this section shall be a public meeting and the records submitted and considered at a meeting shall be public records under the Freedom of Information Act of 1967, § 25-19-101 et seq.

SECTION 6. Arkansas Code § 13-2-704 is amended to read as follows:
13-2-704. Disclosure permitted.

(a) A library may disclose personally identifiable information concerning any patron to:

- (1) The patron;
- (2) Any person with the informed, written consent of the patron;
- (3) A law enforcement agency or civil court, under a search

warrant; or

(4) Any person, including without limitation the patron, who has received an automated telephone notification or other electronic communication for overdue materials or reserve materials if the person making the request can verify the telephone number or email address to which the notice was sent.

(b) A library may disclose confidential library records to:

(1) The patron; and

(2) The parent or legal guardian of a patron who is younger than eighteen (18) years of age."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator D. Sullivan

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Secretary