

2023 Regular Session

SENATE BILL NO. 7

BY SENATOR CLOUD AND REPRESENTATIVE GAROFALO

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. (8/1/23)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

A. The legislature recognizes the fundamental right of parents to make decisions as to the care, custody, and control of their children. This fundamental right includes the right to decide the upbringing and education of children under their control. Parents have the right to guide and direct the reading, listening, and viewing choices of their minor children. Many libraries lack adequate policies addressing the access of minors to sexually explicit materials. In furtherance of this fundamental right, it is the intent of the legislature to

1 require libraries to adopt and implement policy language to limit the access of
2 minors to sexually explicit materials.

3 B. As used in this Section, the following terms shall have the following
4 meanings:

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

8 (2) "Library patron" means an individual who holds a library card from
9 the parish or municipal library.

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

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

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

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

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

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

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

1 C.(1) No later than January 1, 2024, each library established pursuant
2 to the provisions of this Part or pursuant to the authority of a home rule charter
3 as provided in Article VI, Section 5 of the Constitution of Louisiana shall adopt
4 and implement a policy to limit the access of minors to sexually explicit
5 material.

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

7 (a) A requirement that community standards for the population served
8 by the library be considered when acquiring library material that would be
9 accessible to a minor through donation or purchase.

10 (b) A library card system that requires a minor's parent or guardian to
11 select whether the minor is permitted to check out sexually explicit material
12 physically available in the library. The provision of this Subparagraph shall be
13 satisfied by either of the following:

14 (i) A library card that restricts a minor from checking out any library
15 material in a collection that the library board of control has, through majority
16 vote in an open meeting, identified as containing sexually explicit material
17 pursuant to a request for reconsideration.

18 (ii) A library card that restricts a minor from checking out any library
19 material that the library board of control has, through majority vote in an open
20 meeting, identified as sexually explicit material pursuant to a request for
21 reconsideration.

22 (c) A library card system that requires a minor's parent or guardian to
23 select whether the minor is permitted to check out digital content. The library
24 shall list in the library's policy each digital content source accessible by a minor
25 that contains library material that the library board of control has, through
26 majority vote in an open meeting, identified as sexually explicit material
27 pursuant to a request for reconsideration.

28 (d) A procedure that allows a library patron to request the
29 reconsideration of whether a library material should be included in a library

1 collection accessible to a minor. The procedure shall, at a minimum, include all
2 of the following items:

3 (i) A process to review a reconsideration request made by a library
4 patron. The review process shall include but is not limited to a written
5 determination approving or denying the request, notification to the library
6 patron making the request of the written determination, and the process to
7 appeal the determination to the library board of control.

8 (ii) A requirement that a request for reconsideration of a library
9 material that may include sexually explicit material be reviewed by the library
10 board of control. The library board of control shall determine whether the
11 library material meets the definition of sexually explicit material by majority
12 vote in an open meeting.

13 (3) The adoption of the policy required by this Subsection may be by
14 amendment to an existing library policy. The policy required by this Subsection
15 may adopt the definitions in Subsection B of this Section by reference.

16 D. Nothing in this Section shall be construed to impose liability on an
17 employee or agent of a library or a member of the library board of control.

18 E. (1) The governing authority of a parish or municipality with a library
19 that fails to adopt and implement a policy required by Subsection C of this
20 Section may withhold, during the period of noncompliance, the payments
21 required by R.S. 25:220. The governing authority shall provide the library
22 board of control sixty days written notice prior to withholding any payments
23 pursuant to this Paragraph.

24 (2) The State Bond Commission shall not consider any application
25 authorizing the incurrence of debt or any application authorizing the levy of
26 any tax where the proceeds of the debt or tax directly benefit a library that fails
27 to adopt and implement the policy required by Subsection C of this Section until
28 the library adopts and implements the policy.

The original instrument was prepared by Thomas L. Tyler. The following digest, which does not constitute a part of the legislative instrument, was prepared by LG Sullivan.

DIGEST

SB 7 Reengrossed

2023 Regular Session

Cloud

Present law provides for the establishment of libraries by parishes and municipalities.

Proposed law defines "digital content", "library patron", "sexual conduct", and "sexually explicit material".

Proposed law requires that by January 1, 2024, each library established in accordance with present law or pursuant to a home rule charter shall adopt and implement a policy to limit the access of minors 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 that would be accessible to minors through donation or purchase.
- (2) A library card system that requires a minor's parent or guardian to select whether the minor is permitted to check out sexually explicit material physically available in the library. This may be accomplished by either:
 - (a) A library card that restricts a minor from checking out any library material in a collection that the library board of control has, through majority vote in an open meeting, identified as containing sexually explicit material pursuant to a request for reconsideration.
 - (b) 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 pursuant to a request for reconsideration.
- (3) A library card system that requires a minor's parent or guardian to select whether the minor is permitted to check out digital content. The library is required to list in the library's policy each digital content source accessible by a minor that contains library material that the library board of control has, through majority vote in an open meeting, identified as sexually explicit material pursuant to a request for reconsideration.
- (4) A procedure that allows a library patron to request the reconsideration of whether a library material should be included in a library collection accessible to minors. 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 or a member of the library board of control.

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 requires the governing authority to provide 60 days written notice to the library board of control prior to withholding any payments pursuant to 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.

Effective August 1, 2023.

(Adds R.S. 25:225)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Education to the original bill

1. Provides for a library card system that requires a minor's parent or guardian to select whether the minor is permitted to check out sexually explicit material physically available in the library.
2. Provides for a library card system that requires a minor's parent or guardian to select whether the minor is permitted to check out digital content.
3. Requires the library to list in the library's policy each digital content source accessible by a minor that contains library material that the library board of control has, through majority vote in an open meeting, identified as sexually explicit material pursuant to a request for reconsideration.
4. Provides for immunity of a member of the library board of control.
5. Requires the governing authority to provide 60 days written notice to the library board of control prior to withholding any payments pursuant to proposed law.

Committee Amendments Proposed by Senate Committee on Education to the engrossed bill

1. Clarify that community standards are to be considered when acquiring material accessible to minors.
2. Clarify that required procedure must allow a library patron to request the reconsideration of whether a library material should be included in a library collection accessible to minors.