SENATE BILL NO. 238

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - SECOND SESSION

BY SENATOR KAWASAKI

Introduced: 2/9/26
Referred: Education, Judiciary

A BILL

FOR AN ACT ENTITLED

"An Act relating to access to library material; and relating to affirmative defenses to the offenses of enticement of a minor, contributing to the delinquency of a minor, and distribution of indecent material to minors."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 11.41.452 is amended by adding a new subsection to read:

(f) It is an affirmative defense to a prosecution under this section that, at the time of the offense, the defendant was acting in the course of employment as an employee or official of a school, museum, or public library.

*** Sec. 2.** AS 11.51.130 is amended by adding a new subsection to read:

(c) It is an affirmative defense to a prosecution under this section that, at the time of the offense, the defendant was acting in the course of employment as an employee or official of a school, museum, or public library.

*** Sec. 3.** AS 11.61.128 is amended by adding a new subsection to read:

(f) It is an affirmative defense to a prosecution under this section that, at the

time of the offense, the defendant was acting in the course of employment as an employee or official of a school, museum, or public library.

*** Sec. 4.** AS 14.56 is amended by adding new sections to read:

Article 7. Access to Library Material.

Sec. 14.56.450. Public library material policy. (a) A librarian employed by a public library may curate library material for inclusion in the public library according to the policy approved by the governing body of the public library.

(b) The commissioner shall establish and update as necessary a model policy on the curation and reconsideration of library material within a public library. The policy must provide standards for the selection and curation of library material, establish criteria for the removal of existing library material, and provide protection against attempts to censor library material. At a minimum, the policy must

(1) recognize that a public library serves as a center for voluntary inquiry and the dissemination of information and is the marketplace of ideas;

(2) promote the free expression of, and free access to, ideas by prohibiting the censorship of library material;

(3) prohibit the removal of library material from a public library based on the origin of, background of, or views expressed by the library material or of those contributing to its creation;

(4) recognize that library material is provided for the interest, information, and enlightenment of all people and should present a wide range of points of view;

(5) establish a procedure, based on professional standards, for a librarian to review the inclusion of library material within a public library on an ongoing basis, which must include consideration of

(A) the relevance of the library material;

(B) the condition of the library material;

(C) the availability of duplicates of the library material;

(D) the availability of a more recent library material; and

(E) the continued demand for the library material;

(6) establish a model form and a procedure for an individual to request

a public library to reconsider library material; the procedure must

(A) allow an individual who has used the services of the public library in the past five years and who resides in the public library's designated service area to initiate the review of a specific library material by submitting a request for the public library to reconsider the library material;

(B) require that an individual submitting a request for a public library to reconsider library material review the library material as a whole and not challenge library material based on selective passages that are taken out of context;

(C) provide that, during the review process, the library material subject to reconsideration may not be removed from its location within the public library and must remain available for a patron to reserve, check out, or access;

(D) require that at least one librarian employed at the public library where the request was submitted formally participate in the review process; and

(E) provide a process by which an individual can appeal a decision made on reconsideration, using the standards set out in (5)(A) - (E) of this subsection.

(c) The governing body of a public library shall adopt the model policy established by the commissioner under (b) of this section, as well as any updates to the model policy. The governing body of a public library that has a policy that meets the requirements set out in (b) of this section on the effective date of this section is not required to take further action.

(d) The governing body of a public library may not remove library material from a public library based on the origin of, background of, or views expressed by the library material or of those contributing to its creation. The governing body of a public library may not, based on disagreement with the ideas or concepts expressed by the library material, including objections to a depiction of race, gender, sexuality, or religious or political views, prohibit the public library from acquiring, maintaining, or displaying a specific work or subject matter, restrict access or searchability of library

material, or require parental permission for a minor to access library material.

(e) The governing body of a public library may not, based on objections to sexual content, prohibit the public library from acquiring, maintaining, or displaying a specific work or subject matter, restrict access or searchability of library material, or require parental permission for a minor to access library material unless, with respect to the specific population to which the library material is made available,

(1) the average person, applying contemporary community standards, would find the library material, taken as a whole, appeals to the prurient interest;

(2) the library material depicts or describes, in a patently offensive way, sexual conduct defined by AS 11.66.150; and

(3) the library material, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(f) A government entity that exercises authority over the purchase, selection, curation, and location of library material at the state or municipal level may not reduce funding for a public library because of the public library's compliance with this section.

(g) An employee of a public library is immune from civil and criminal liability arising from good faith actions performed under this section.

Sec. 14.56.455. School library material policy. (a) A librarian employed at a school library may select, purchase, and acquire library material for inclusion in the school library according to the policy approved by the governing body of the school library.

(b) The commissioner shall establish and update as necessary a model policy on the curation and reconsideration of library material within a school library. The policy must provide standards for the selection and curation of library material, establish criteria for the removal of existing library material, and provide protection against attempts to censor library material. At a minimum, the policy must

(1) recognize that library material is provided for the interest, information, and enlightenment of all students and should present a wide range of points of view in the collection;

(2) prohibit the removal of library material from a school library based

on the origin of, background of, or views expressed by the library material or of those contributing to its creation;

(3) recognize the importance of a school library as a center for voluntary inquiry and the dissemination of information and ideas;

(4) promote the free expression of, and free access to, ideas by students by prohibiting the censorship of library material;

(5) acknowledge that a school librarian is professionally trained to curate and develop a school library collection that provides students with access to the widest array of developmentally relevant library material created for the chronological ages and grade levels of students in the school;

(6) establish a procedure, based on professional standards, for a librarian to review the inclusion of library material within a school library on an ongoing basis, which must include consideration of

(A) the relevance of the library material;

(B) the condition of the library material;

(C) the availability of duplicates of the library material;

(D) the availability of more recent developmentally relevant library material created for the chronological ages and grade levels of students in the school; and

(E) the continued demand for the library material; and

(7) establish a model form and procedure for an individual to request a school library to reconsider library material; the procedure must

(A) allow teaching staff employed by the school district, parents and guardians of a student enrolled in the school district, and students enrolled in the school district to initiate the review of a specific library material by submitting to the principal of the school in which the library material is challenged a request for the school library to reconsider the library material;

(B) require that an individual submitting a request for a school library to reconsider library material review the library material as a whole and not challenge library material based on selective passages that are taken out of context;

(C) provide that, during the review process, the library material subject to reconsideration may not be removed from its location within the library and must remain available for students to reserve, check out, or access;

(D) require that at least one school librarian employed at the school and professionally trained to a level determined by the school district formally participate in the review process; and

(E) provide a process by which an individual can appeal a decision made on reconsideration, using the standards set out in (6)(A) - (E) of this subsection.

(c) A school board shall adopt the model policy established by the commissioner under (b) of this section, as well as any updates to the model policy. A school board that has adopted a policy that meets the requirements set out in (b) of this section on the effective date of this section is not required to take further action.

(d) A school board may not remove library material from a school library based on the origin of, background of, or views expressed by the library material or of those contributing to its creation. The school board may not, based on disagreement with the ideas or concepts expressed by the library material, including objections to a depiction of race, gender, sexuality, or religious or political views, prohibit a school library from acquiring, maintaining, or displaying a specific work or subject matter, restrict access or searchability of library material, or require parental permission for a minor to access library material.

(e) An employee of a school library is immune from civil and criminal liability arising from good faith actions performed under this section.

Sec. 14.56.460. Private right of action. (a) A government entity that exercises authority over the purchase, selection, curation, and location of library material at the state or local level may not

(1) censor or order another person to censor library material; or

(2) impose discipline, threaten to impose discipline, or terminate a school or library employee for refusing to censor library material.

(b) A school or library employee may bring an action in a court of competent jurisdiction for damages, including punitive damages, and for declaratory and

injunctive relief and other remedies as may be appropriate against a government entity that violates (a)(2) of this section by disciplining, terminating, or threatening to discipline or terminate the librarian for the librarian's refusal to censor library material.

(c) A student, or the student's parent or guardian, may bring an action in a court of competent jurisdiction for declaratory and injunctive relief and for damages against a government entity that violates (a)(1) of this section by censoring or ordering another person to censor library material within a school attended by the student. Damages shall be awarded at a minimum of $451, but not more than $1,451, for each censored work.

(d) An author, bookseller, or publisher may bring an action in a court of competent jurisdiction for declaratory and injunctive relief and for damages against a government entity that violates (a)(1) of this section by censoring or ordering another person to censor library material written, sold, or published by the author, bookseller, or publisher. Damages shall be awarded at a minimum of $451, but not more than $1,451, for each censored work.

(e) In an action under this section, the court shall grant a prevailing plaintiff reasonable attorney fees and costs, including expert witness fees.

(f) A government entity may not use funds that would otherwise have been appropriated or allocated to a library to pay damages, attorney fees, or other related costs.

(g) It is an affirmative defense to an action brought under this section that, at the time of the conduct giving rise to the action, the government actor or member of the government was acting under direct compulsion from binding state or federal government authority.

(h) An action to enforce this section must be commenced within three years after the date on which the violation of this section occurred.

Sec. 14.56.465. Definitions. In AS 14.56.450 - 14.56.465,

(1) "block" means to prohibit the acquiring, maintaining, or displaying of a specific work or subject matter, restricting access to or searchability of works, or to require parental permission to access works;

(2) "censor" means to block library material based on disagreement

with the ideas or concepts expressed by the material, or based on objections to sexual content, without having made a finding that, with respect to the specific population to which the material is made available,

(A) the average person, applying contemporary community standards, would find the library material, taken as a whole, appeals to the prurient interest;

(B) the library material depicts or describes, in a patently offensive way, sexual conduct defined by AS 11.66.150; and

(C) the library material, taken as a whole, lacks serious literary, artistic, political, or scientific value;

(3) "librarian" means an employee who is trained as required by the employer and who is responsible for the purchase, selection, curation, removal, and display of library material;

(4) "library material" means a book, video, subscription or locally curated database, periodical, chart, graph, movie, game, map, interactive application and software, other enrichment or entertainment material, and, for a school library, other material not required as part of classroom instruction, in a printed or electronic format belonging to, on loan to, or otherwise in the custody of a public library or school library;

(5) "public library" means a library established under AS 14.56.400;

(6) "reconsider" means to reclassify, move to a different section of the library, or remove from the library an item in the library's collection.