SENATE DOCKET, NO. 141 FILED ON: 1/8/2025

SENATE . . . . . No. 2328

The Commonwealth of Massachusetts

PRESENTED BY:

Julian Cyr

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act regarding free expression.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Julian Cyr	*Cape and Islands*	
Jacob R. Oliveira	*Hampden, Hampshire and Worcester*	*1/15/2025*
Mark D. Sylvia	*10th Bristol*	*1/15/2025*
Christopher Richard Flanagan	*1st Barnstable*	*1/28/2025*
Rebecca L. Rausch	*Norfolk, Worcester and Middlesex*	*1/30/2025*
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*1/31/2025*
Dylan A. Fernandes	*Plymouth and Barnstable*	*2/5/2025*
Mike Connolly	*26th Middlesex*	*2/10/2025*
James B. Eldridge	*Middlesex and Worcester*	*2/10/2025*
Patricia D. Jehlen	*Second Middlesex*	*2/19/2025*
Michael J. Barrett	*Third Middlesex*	*2/21/2025*
Robyn K. Kennedy	*First Worcester*	*2/24/2025*
Bruce E. Tarr	*First Essex and Middlesex*	*2/27/2025*

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SENATE . . . . . No. 2328

By Mr. Cyr, a petition (accompanied by bill, Senate, No. 2328) of Julian Cyr, Jacob R. Oliveira, Mark D. Sylvia, Christopher Richard Flanagan and other members of the General Court for legislation relative to free expression in school and public libraries. Tourism, Arts and Cultural Development.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act regarding free expression.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The general court finds and declares that:

(i) attempts to ban, remove or otherwise restrict access to books or other materials in public libraries and school libraries of the commonwealth undermines the public good and restrict academic growth;

(ii) librarians should be protected from personal attacks and threats directed at them due to work performed in good faith within their role and position;

(iii) library materials should not be proscribed or removed because of personal, political or doctrinal views, and materials should not be excluded because of the origin, background or views of those contributing to their creation; and

(iv) access to state-funded shared library resources requires public libraries to be in compliance with the General Laws.

SECTION 2. Section 82 of chapter 71 of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by striking out, in lines 4 to 11, inclusive, the words "Freedom of expression shall include without limitation, the rights and responsibilities of students, collectively and individually, (a) to express their views through speech and symbols, (b) to write, publish and disseminate their views, (c) to assemble peaceably on school property for the purpose of expressing their opinions. Any assembly planned by students during regularly scheduled school hours shall be held only at a time and place approved in advance by the school principal or his designee." and inserting in place thereof the following sentence:- Freedom of expression shall include, without limitation, the rights and responsibilities of students, collectively and individually, to: (a) express their views through speech and symbols; (b) write, publish and disseminate their views; (c) assemble peaceably on school property for the purpose of expressing their opinions; provided, that assembly planned by students during regularly scheduled school hours shall be held only at a time and place approved in advance by the school principal or their designee; and (d) receive information, including through materials determined to be educational and age-appropriate for inclusion in a school library by the school library teacher in the district licensed by the department, or in the absence of such a school library teacher, the school official responsible for the selection of library materials and the use of school library materials and facilities.

SECTION 3. Said chapter 71 is hereby further amended by inserting after said section 82 the following 4 sections: -

Section 82A. Any determination by a school library teacher licensed by the department, or in the absence of such school library teacher by the school employee responsible for the selection and display of library materials, that materials are appropriate for inclusion in a school

library shall: (i) be age appropriate; (ii) serve an educational purpose; and (iii) be based on their professional training and not on personal, political or doctrinal views.

Section 82B. The school committee or other administrative authority of a school library shall establish a written policy for: (i) the selection of school library materials, including textbooks, instructional materials, curricula, books or other library resources; and (ii) the use of library materials and library facilities. The written policy shall be in accordance with standards adopted by the American library association. This written policy shall be filed annually with the department. This policy shall include responding to attempts to remove or restrict library materials, based upon the objections of a person or group. The board of library commissioners through its affiliate the Massachusetts Library System shall make sample policies available.

The written policy pursuant to section 82B shall include a process for responding to complaints and challenges and other attempts to remove or restrict library materials based upon the objections of a person or group. The policy shall provide that if a material is the subject of a complaint or attempt to remove or restrict its use, it shall remain on the shelves pending a vote of the school committee during the process for responding to challenges; provided, that the challenged material was selected for inclusion in the school library by a school library teacher licensed by the department, or in the absence of a school library teacher, by the school official responsible for the selection of library materials. Districts shall include information on book challenges annually to the department.

Section 82C. (a) The selection of materials for inclusion in a collection shall not be overruled except upon a determination and vote by the school committee, after notice and public hearing and recommendation by a review committee of school personnel, appointed by the

school committee, and the superintendent, that, based on clear and convincing evidence, the material is devoid of any educational, literary, artistic, personal or social value or is not age appropriate for any child who attends the school.

(b) A decision of the school committee to remove materials from a school library may be challenged by any student, parent or guardian pursuant to section 5 of chapter 249, including on the grounds that the decision was not supported by clear and convincing evidence.

(c) Nothing in this section precludes personnel responsible for school library content from deciding to remove materials that have become outdated or to accommodate new materials; provided, that the decision is not made based on personal, political or doctrinal views.

Section 82D. No employee shall lose their librarian licensure or certification or be dismissed, disciplined, placed on probation, involuntarily transferred, fined or imprisoned for the selection of library materials when the selection is made in good faith and in accordance with the approved policy adopted pursuant to section 82B.

SECTION 4. Section 10 of chapter 78 of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by striking out, in line 8, the words “, male or female,”.

SECTION 5. Said section 10 of said chapter 78, as so appearing, is hereby further amended by striking out, in line 13, the word “chairman” and inserting in place thereof the following word:- chair.

SECTION 6. Section 14 of said chapter 78, as so appearing, is hereby amended by striking out, in line 5, the word “his” and inserting in place thereof the following words:- the member’s.

SECTION 7. Said section 14 of said chapter 78, as so appearing, is hereby further amended by striking out, in line 13, the word “chairman” and inserting in place thereof the following word:- chair.

SECTION 8. Said section 14 of said chapter 78, as so appearing, is hereby further amended by striking out, in lines 18 and 21, the word “his” and inserting in place thereof, in each instance, the following word:- their.

SECTION 9. Said section 14 of said chapter 78, as so appearing, is hereby further amended by striking out, in line 19, the word “him” and inserting in place thereof the following words:- the director.

SECTION 10. Said section 14 of said chapter 78, as so appearing, is hereby further amended by striking out, in line 22, the word “him” and inserting in place thereof the following words:- the deputy director.

SECTION 11. Section 15 of said chapter 78, as so appearing, is hereby amended by adding the following 2 paragraphs:-

The board of library commissioners shall make resources available to assist the board of trustees, or other administrative authority of a free municipal public library, to create or modify written policies for: (i) the selection of library material; (ii) the development of their library collections; (iii) the use of materials and facilities; and (iv) the process to respond to book challenges, in accordance with the standards adopted by the American Library Association and as required by section 19B.

The board of library commissioners through its affiliate the Massachusetts Library System shall make resources available to help any school committee or other administrative authority of a school library create or modify written policies for the selection of library materials and the use of materials and facilities in accordance with the standards adopted by the American Library Association.

SECTION 12. Section 19B of said chapter 78, as so appearing, is hereby amended by striking clause (7) and inserting in place thereof the following 2 clauses:-

(7) include in their annual report the total number of nonresident loans and nonresident circulation as a percentage of the library's total circulation, as certified by the librarian and subject to an audit by the state auditor, and

(8) adopt and make public a written policy for the selection and use of library materials and facilities in accordance with section 33; provided, that such policy shall incorporate the American Library Association's Library Bill of Rights and state that materials should not be selected, proscribed or removed because of personal, political or doctrinal disapproval or bias.

SECTION 13. Section 33 of said chapter 78, as so appearing, is hereby amended by inserting after the word "establish", in line 3, the following words:- and implement.

SECTION 14. Said section 33 of said chapter 78, as so appearing, is hereby further amended by inserting after the word "Association", in line 6, the following words:- including, but not limited to, its Library Bill of Rights;

SECTION 14A. Said section 33 of said chapter 78, as so appearing, is hereby further amended by striking the words "be dismissed", in line 6, and inserting in place thereof the

following words:- lose librarian licensure or certification or be dismissed, disciplined, placed on probation, involuntarily transferred, fined or imprisoned.

SECTION 15. Said chapter 78 is hereby further amended by adding the following section:-

Section 35. Annually, not later than September 1, the board of library commissioners shall submit to the clerks of the house of representatives and senate, the joint committee on tourism, arts and cultural development, the joint committee on education, the joint committee on municipalities and regional government and the house and senate committees on ways and means a report on book challenges in the commonwealth and its impact on communities. This report shall include information on settings of book challenges (municipal library or school library), the title and author of specific challenges, the municipalities in which the challenges occurred and the outcomes of such challenges. This report may also include recommendations to support programming that expands access to library materials.