

2023 Regular Session

SENATE BILL NO. 7

BY SENATOR CLOUD

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 AN ACT

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

8 Be it enacted by the Legislature of Louisiana:

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

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

12 **A. The legislature recognizes the fundamental right of parents to make**
13 **decisions as to the care, custody, and control of their children. This fundamental**
14 **right includes the right to decide the upbringing and education of children**
15 **under their control. Parents have the right to guide and direct the reading,**
16 **listening, and viewing choices of their minor children. Many libraries lack**
17 **adequate policies addressing the access of minors to sexually explicit materials.**
18 **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 is eligible to receive a
9 library card from 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,
19 or 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 through donation
9 or purchase.

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

14 (i) Allowing a parent or guardian to select a library card that restricts
15 a minor from checking out any library material from a collection that contains
16 sexually explicit material.

17 (ii) Allowing a parent or guardian to select a library card that restricts
18 a minor from checking out any library material that the library board of
19 control has, through majority vote in an open meeting, identified as sexually
20 explicit material.

21 (c) A library card system that allows a parent or guardian to select a
22 library card that indicates whether a minor is permitted to check out digital
23 content. The library shall list in the library's policy each digital content source
24 accessible by a minor that contains sexually explicit material.

25 (d) A procedure that allows a library patron to request the
26 reconsideration of whether a library material should be included in a library
27 collection. The procedure shall, at a minimum, include all of the following
28 items:

29 (i) A process to review a reconsideration request made by a library

1 patron. The review process shall include but is not limited to a written
 2 determination approving or denying the request, notification to the library
 3 patron making the request of the written determination, and the process to
 4 appeal the determination to the library board of control.

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

10 (3) The adoption of the policy required by this Subsection may be
 11 satisfied by amendment to an existing library policy.

12 D. Nothing in this Section shall be construed to impose liability on an
 13 employee or agent of a library.

14 E. (1) The governing authority of a parish or municipality with a library
 15 that fails to adopt and implement a policy required by Subsection B of this
 16 Section may withhold, during the period of noncompliance, the payments
 17 required by R.S. 25:220.

18 (2) The State Bond Commission shall not consider any application
 19 authorizing the incurrence of debt or any application authorizing the levy of
 20 any tax where the proceeds of the debt or tax directly benefit a library that fails
 21 to adopt and implement the policy required by Subsection B of this Section until
 22 the library adopts and implements the policy.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Thomas L. Tyler.

DIGEST

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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 through donation or purchase.
- (2) A library card system that allows a parent or guardian to select a card that indicates whether a minor is permitted to check out sexually explicit material physically available in the library. This may be accomplished by either:
 - (a) Allowing a parent or guardian to select a library card that restricts a minor from checking out any library material from a collection that contains sexually explicit material.
 - (b) Allowing a parent or guardian to select 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.
- (3) A library card system that allows a parent or guardian to choose a library card that indicates whether a minor is permitted to check out digital content. The library is required to list in the library policy each digital content source accessible by minors that contains sexually explicit material.
- (4) A procedure that allows a library patron to request the reconsideration of whether a library material should be included in a library collection. 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.

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 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)