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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

RELATING TO LIBRARIES -- THE FREEDOM TO READ ACT

Introduced By: Senators McKenney, Bissailon, Gallo, Gu, Lawson, Tikoian, and Britto

Date Introduced: February 13, 2025

Referred To: Senate Education

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 29 of the General Laws entitled "LIBRARIES" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 9

4 THE FREEDOM TO READ ACT

5 **29-9-1. Short Title.**

6 This chapter shall be known and may be cited as the "The Freedom to Read Act".

7 **29-9-2. Statement of policy.**

8 (a) The general assembly hereby declares the following to be the policy of this state that:

9 (1) That the freedom to read is a human right, constitutionally protected by the First
10 Amendment to the United States Constitution, and Article 1, Section 21 of the Rhode Island
11 Constitution, and individuals have the right to free speech, free inquiry and the right to form and
12 express their own opinions;

13 (2) Authors, creators, and publishers have a right to communicate their ideas to anyone

14 who is interested in receiving them. Students and library patrons of all ages have a corresponding
15 right to encounter them without government interference;
16 (3) The freedom to read does not require a person to agree with topics or themes within a
17 material, but instead allows an individual to explore and engage with differing perspectives to form
18 and inform their own views;
19 (4) To promote the free expression of and free access to information and the marketplace

1 of ideas by prohibiting the censorship of library material:

2 (5) It is the responsibility of government at all levels to protect the freedom to read; and

3 (6) A librarian is professionally trained to curate and develop age relevant collections
4 sufficient in size and varied in subject matter to benefit their community.

5 **29-9-3. Definitions.**

6 As used in this chapter:

7 (1) "Block" means to prohibit acquiring, maintaining, or displaying a specific work or
8 subject matter, restricting access to or restricting searchability of works, or to require parental opt-
9 in to access works.

10 (2) "Censor" or "censorship" means to block library material on the basis of disagreement
11 with the material's ideas or concepts including, but not limited to: objections to depictions of race,
12 gender, sexuality, religious or political views or objections to sexual content that fail to apply the
13 appropriate criteria set forth by the United States Supreme Court in Miller v. California; specifically
14 with respect to the population for which the material is made available:

15 (i) Whether the average person applying contemporary community standards would find
16 the work, taken as a whole, appeals to the prurient interest;

17 (ii) Whether the work depicts or describes, in a patently offensive way, sexual conduct
18 specifically defined by the applicable state law; and

19 (iii) Whether the work, taken as a whole, lacks serious literary, artistic, political or
20 scientific value.

21 (3) "Government actor" means a member of a government body with voting authority.

22 (4) "Government body" means any government decision-making body or governing body,
23 such as a library board or school board, that exercises authority over the purchasing, selection,
24 curation, and location of library materials at the state or municipal levels, including a library board
25 of trustees as defined in § 29-4-5 and a school committee as defined in § 16-2-9.

26 (5) "Individual with a vested interest in the public library" means any resident who is
27 served by the public library and resides in the municipality where the library is situated.

28 (6) "Individual with a vested interest in the school library" means any teaching staff
29 member employed by the school district, any parent or guardian of a student enrolled in the school

30 district at the time the removal form required pursuant to § 29-9-4 is filed, and any student enrolled
31 in the district at the time the removal form required pursuant to § 29-9-4 is filed.

32 (7) "Library material" means books, videos, subscription or locally curated databases,
33 newspapers, magazines and other such periodicals, charts, graphs, movies, games, maps, interactive
34 applications and software, and other such enrichment or entertainment materials in any printed or

1 electronic format, inclusive of fiction and non-fiction belonging to, on loan to, or otherwise in the
2 custody of the public library or other material not required as part of classroom instruction,
3 belonging to, on loan to, or otherwise in the custody of the school library.

4 (8) "Librarian" means a professionally trained employee who is responsible for the
5 purchase, selection, curation, removal, and display of library materials.

6 (9) "Public library" means an institution that is established or designated by a city or town
7 and functions as a free public library in accordance with chapter 4 of title 29 to serve a community
8 or municipality and is supported, in whole or in part, with public funds.

9 (10) "Reconsideration" means a request to reclassify, move to a different section of the
10 library, or remove an item in the library's collection.

11 **29-9-4. Public library collection policy.**

12 (a) In addition to the duties prescribed in § 29-3.1-7, the chief of library services shall
13 establish a model policy on the curation of library material within a public library. The purpose of
14 the collection policy is to: provide standards for the selection and curation of library material;
15 establish criteria for the removal of existing library material; and provide protection against
16 attempts to censor library material.

17 (b) The model policy shall, at a minimum:

18 (1) Recognize that public libraries serve as centers for voluntary inquiry and the
19 dissemination of information and the marketplace of ideas;

20 (2) Promote the free expression of and free access to ideas by prohibiting the censorship of
21 library material;

22 (3) Acknowledge that library material shall not be removed from a public library because
23 of the origin, background, or views of the library material or of those contributing to its creation;

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

26 (5) Establish a procedure based on professional standards for a librarian to review and the
27 deaccession of library material within a public library on an ongoing basis, which shall include, but

28 not limited to: the library material's relevance, the condition of the library material, the availability

29 of duplicates, the availability of more recent material, and the continued demand of the library

30 material.

31 (c) The model policy shall be updated as the chief of library services deems necessary.

32 (d) A governing body of a public library shall adopt the model policy established pursuant
33 to this section. If a public library has a policy that complies with the requirements of subsection (b)
34 of this section as of the effective date of this chapter, the library shall not be required to take further

1 action.

2 (e) Librarians employed by a public library shall have discretion in selecting, purchasing,
3 or acquiring library material for inclusion in the public library, following the policy approved by
4 the governing body of the public library. Nothing in this section shall be construed to require a
5 librarian to purchase, or otherwise acquire a particular library material for the library.

6 (f) In addition to the duties prescribed in § 29-3.1-7, the chief of library services shall
7 establish a model policy creating a procedure regarding a request for reconsideration of library
8 material in a public library.

9 (g) The model policy shall, at a minimum require:

10 (1) The creation of a request for reconsideration form, based on a model form established
11 by the chief of library services, that may be submitted by an individual with a vested interest in the
12 public library to initiate the review of specific library material;

13 (2) An individual with a vested interest in the public library requesting that library material
14 be reconsidered shall review the material as a whole and not choose selective passages out of
15 context;

16 (3) A library material that is the subject of a request for reconsideration shall not be
17 removed from its location within the library and shall remain available for a resident to reserve,
18 check out, or access while the material is being reviewed;

19 (4) The reconsideration process shall include the formal participation of at least one
20 librarian employed by the public library where the form was submitted; and

21 (5) An appeals process for any decision made regarding reconsideration in accordance with
22 the standards established in subsection (b) of this section.

23 (h) A governing body of a public library shall adopt the model policy established pursuant
24 to this section. If a public library has a policy that complies with the requirements of subsection (g)
25 of this section as of the effective date of this chapter, the library shall not be required to take further
26 action.

27 (i) A governing body of a public library shall not remove library material from a public
28 library because of the origin, background, or views of the library material or of those contributing
29 to its creation, and shall not engage in censorship of library material. A substantive rationale for

30 blocking, suppressing or removing library material shall be memorialized by the governing body
31 in writing and made publicly available.

32 (j) Any staff member of a public library, including a librarian employed by a public library,
33 shall be immune from civil and criminal liability arising from good faith actions performed
34 pursuant to this chapter.

1 (k) A government body shall not reduce funding for a public library due to the library's
2 compliance with the provisions of this section.

3 **29-9-5. School library collection policy.**

4 (a) Pursuant to the duties prescribed in § 16-1-5(7), the commissioner of elementary and
5 secondary education shall establish, in collaboration with the chief of library services, a model
6 policy on the curation of library material within a school library. The purpose of the collection
7 policy is to: provide standards for the selection and curation of library material; establish criteria
8 for the removal of existing school library material; and provide protection against attempts to
9 cancel library material.

10 (b) The model policy shall, at a minimum:

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

13 (2) Acknowledge that library material shall not be removed from a school library because
14 of the origin, background, or views of the library material or of those contributing to its creation;

15 (3) Recognize the importance of school libraries as centers for voluntary inquiry and the
16 dissemination of information and ideas;

17 (4) Promote the free expression and free access to ideas by students by prohibiting the
18 cancelship of library materials;

19 (5) Acknowledge that a certified school librarian is professionally trained to curate and
20 develop the school library collection that provides students with access to the widest array of
21 developmentally relevant library material created for the chronological ages and grade levels of
22 students in the school available to schools; and

23 (6) Establish a procedure based on professional standards for a librarian to review and the
24 deaccession of library material within a school library on a regular basis, which shall include, but
25 not limited to: the library material's relevance; the condition of the library material; the availability
26 of duplicates; the availability of more recent developmentally relevant library material created for
27 the chronological ages and grade levels of students in the school; and the continued demand for the
28 library material.

29 (c) The model policy shall be updated as the commissioner of elementary and secondary

30 education and chief of library services deem necessary.

31 (d) A school committee shall adopt the model policy established pursuant to this section.

32 If a school district has a policy that complies with the requirements of subsection (b) of this section

33 as of the effective date of this chapter, the school committee shall not be required to take further

34 action.

1 (e) Librarians employed at a school library shall have discretion in selecting, purchasing,
2 or acquiring library material for inclusion in the school library, following the policy approved by
3 the school committee. Nothing in this section shall be construed to require a librarian to purchase,
4 or otherwise acquire a particular library material for a school library.

5 (f) Nothing in this section shall be construed to restrict a school committee's authority to
6 select textbooks and school supplies related to the curriculum.

7 (g) Pursuant to the duties prescribed in § 16-1-5(7), the commissioner of elementary and
8 secondary education shall establish, in collaboration with the chief of library services, a model
9 policy creating a procedure regarding a request for removal of library material within a school
10 library.

11 (h) The model policy shall, at a minimum require:

12 (1) The creation of a request for removal form, based on a model removal form developed
13 by the commissioner of elementary and secondary education and chief of library services, that may
14 be submitted by an individual with a vested interest to the principal of the school in which the
15 library material is challenged to initiate a review of the material;

16 (2) An individual with a vested interest in the school library requesting that library material
17 be reconsidered shall review the material as a whole and not choose selective passages out of
18 context;

19 (3) That challenged library material shall not be removed from its location within the
20 library and shall remain available for a student to reserve, check out, or access while the material
21 is being reviewed;

22 (4) The request for removal process shall include the formal participation of at least one
23 certified librarian employed by the school where the form was submitted; and

24 (5) An appeals process for any decision made regarding reconsideration in accordance with
25 the standards established in subsection (b) of this section.

26 (i) If a school committee has a policy that complies with the requirements of subsection (h)
27 of this section as of the effective date of this chapter, the school committee shall not be required to
28 take further action.

29 (j) A school committee shall not remove library material from a school library because of

30 the origin, background, or views of the library material or those contributing to its creation, and
31 shall not engage in censorship of library material.
32 (k) Any staff member of a school library, including a librarian employed by a school, shall
33 be immune from civil and criminal liability arising from good faith actions performed pursuant to
34 this chapter.

1 **29-9-6. Private right of action.**

2 (a) An anti-censorship claim is established under this section when a government body:

3 (1) Censors or orders others to censor library materials; or

4 (2) Imposes discipline, threatens to impose discipline, or terminates a school or library
5 employee for refusing to censor library materials.

6 (b) A librarian who has been subjected to discipline, termination, or threats of discipline
7 or termination for refusing to censor library materials may bring an anti-censorship action in any
8 court of competent jurisdiction for damages, including punitive damages, and for declaratory and
9 injunctive relief and such other remedies as may be appropriate against a government body.

10 (c) A student, or their parent or guardian, may bring an anti-censorship action in any court
11 of competent jurisdiction for declaratory and injunctive relief and damages against a government
12 body that enforces censorship of library materials. Damages shall be a minimum of five hundred
13 dollars (\$500) per censored work, but shall not exceed five thousand dollars (\$5,000) per censored
14 work.

15 (1) Students, or their parents or guardians, may only challenge censorship within a school
16 they, or their child, attends.

17 (d) An author, bookseller, or publisher whose library materials have been subjected to
18 censorship may bring an action in any court of competent jurisdiction for declaratory and injunctive
19 relief and damages against any government body that enforces censorship of library materials.
20 Damages shall be a minimum of five hundred dollars (\$500) per censored work but shall not exceed
21 five thousand dollars (\$5,000) per censored work.

22 (e) In any anti-censorship action, the court shall grant a prevailing plaintiff reasonable
23 attorneys' fees and related costs, including expert fees.

24 (f) A government body may not use funds that would otherwise have been used by a library
25 to pay damages, attorneys' fees, or other related costs.

26 (g) With regards to an affirmative defense, a government actor, or member thereof, acting
27 under direct compulsion from binding state or federal government authority shall not be liable for
28 censorship.

29 (h) With regards to a statute of limitations, any action or proceeding to enforce this section

30 shall be commenced no later than three (3) years after the date on which the violation of this section
31 is committed.

32 SECTION 2. Sections 11-31-1 and 11-31-10 of the General Laws in Chapter 11-31 entitled
33 "Obscene and Objectionable Publications and Shows" are hereby amended to read as follows:

34 **11-31-1. Circulation of obscene publications and shows.**

1 (a) Every person who willfully or knowingly promotes for the purpose of commercial gain
2 within the community any show, motion picture, performance, photograph, book, magazine, or
3 other material which is obscene shall, upon conviction, be punished by a fine of not less than one
4 hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by imprisonment for not
5 more than two (2) years, or both.

6 (b) For the purpose of this section:

7 (1) In determining whether or not a show, motion picture, performance, photograph, book,
8 magazine, or other material is obscene the trier of the fact must find:

9 (i) That the average person, applying contemporary community standards, would find that
10 the work, taken as a whole, appeals to the prurient interest;

11 (ii) That the work taken as a whole, clearly depicts or describes, in a patently offensive
12 way, sexual conduct specifically defined by this chapter; and

13 (iii) That the work, taken as a whole, clearly lacks serious literary, artistic, educational,
14 political, or scientific value.

15 (2) "Community standards" means the geographical area of the state of Rhode Island.

16 (3) "Knowingly" means having knowledge of the character and content of the material or
17 failure on notice to exercise reasonable inspection which would disclose the content and character
18 of it.

19 (4) "Material" means anything tangible which is capable of being used or adapted to arouse
20 prurient interest through the medium of reading, or observation.

21 (5) "Patently offensive" means so offensive on its face as to affront current standards of
22 decency.

23 (6) "Performance" means any play, motion picture, dance, or other exhibition performed
24 before an audience.

25 (7) "Promote" means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer,
26 transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree
27 to do it for resale.

28 (8) "Sexual conduct" means:

29 (i) An act of sexual intercourse, normal or perverted, actual or simulated, including genital-

30 genital, anal-genital, or oral-genital intercourse, whether between human beings or between a
31 human being and an animal.

32 (ii) Sado-masochistic abuse, meaning flagellation or torture by or upon a person in an act
33 of apparent sexual stimulation or gratification.

34 (iii) Masturbation, excretory functions, and lewd exhibitions of the genitals.

1 (9) "Standards of decency" means community standards of decency.

2 (c) If any of the depictions and descriptions of sexual conduct described in this section are
3 declared by a court of competent jurisdiction to be unlawfully included because the depictions or
4 descriptions are constitutionally protected or for any other reason, that declaration shall not
5 invalidate this chapter as to other sexual conduct included in this chapter.

6 **11-31-10. Sale or exhibition to minors of indecent publications, pictures, or articles.**

7 (a) Every person who shall willfully or knowingly engage in the business of selling,
8 lending, giving away, showing, advertising for sale, or distributing to any person under the age of
9 eighteen (18) years, has in his or her possession with intent to engage in that business or to
10 otherwise offer for sale or commercial distribution to any person under the age of eighteen (18)
11 years, or who shall display at newsstands or any other business establishment frequented by persons
12 under the age of eighteen (18) years or where persons under the age of eighteen (18) years are or
13 may be invited as a part of the general public, any motion picture, any still picture, photograph, or
14 any book, pocket book, pamphlet, or magazine of which the cover or content consists of explicit
15 representations of "sexual conduct", "sexual excitement", "nudity" and which is indecent for
16 minors or which is predominantly made up of descriptions of "sexual conduct", "sexual
17 excitement", "nudity" and which is indecent, shall, upon conviction, be punished by a fine of not
18 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by
19 imprisonment for not more than two (2) years, or both.

20 (b) As used in this section, the following words have the following meaning:

21 (1) "Indecent for minors" means:

22 (i) Appealing to the prurient interest in sex of minors;

23 (ii) ~~Patently~~ Taken as a whole is patently offensive to prevailing standards in the adult
24 community with respect to what is suitable material for minors; and

25 (iii) ~~Lacking~~ Clearly lacking serious literary, artistic, educational, political, or scientific
26 value for minors;

27 (2) "Knowingly" means having knowledge of the character and content of the publication
28 or failure on notice to exercise reasonable inspection which would disclose its content and
29 character;

30 (3) "Nudity" means less than completely and opaquely covered; human genitals, pubic
31 regions, buttock, and female breast below a point immediately above the top of the areola;

32 (4) "Sexual conduct" means act of human masturbation, sexual intercourse, sodomy,
33 fondling, or other erotic touching of human genitals, pubic region, buttock, or female breasts; and

34 (5) "Sexual excitement" means human genitals in a state of sexual stimulation or arousal.

1 SECTION 3. Chapter 11-31 of the General Laws entitled "Obscene and Objectionable
2 Publications and Shows" is hereby amended by adding thereto the following section:

3 **11-31-16. Affirmative defense.**

4 (a) It is in the interest of the state to protect the financial resources of libraries and
5 educational institutions from being expended in litigation and to permit these resources to be used
6 to the greatest extent possible for fulfilling the essential purpose of libraries and educational
7 institutions.

8 (b) In any prosecution arising under §§ 11-31-1 or 11-31-10, shall be an affirmative defense
9 that the defendant was a bona fide school, museum, or public library, or was a person acting in the
10 course of employment as an employee or official of such an organization.

11 (c) If the charges are dismissed or the defendant is acquitted in any prosecution arising
12 under §§ 11-31-1 or 11-31-10, the defendant, if the affirmative defense established in this section
13 was asserted, shall be entitled to an award of reasonable attorneys' fees and costs.

14 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO LIBRARIES -- THE FREEDOM TO READ ACT

1 This act would promote the free expression and free access of information by prohibiting
2 the censorship of library materials. This act would require the creation of a model policy relative
3 to library material within a public library and school library.

4 This act would take effect upon passage.

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