

## SENATE BILL NO. 396

INTRODUCED BY D. EMRICH, J. FULLER, T. MCGILLVRAY

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT RESOURCES IN A PUBLIC LIBRARY THAT CONTAIN MATERIAL OF A SEXUAL OR A GRAPHIC SEXUAL NATURE BE PLACED ONLY IN THE YOUNG ADULT OR ADULT SECTIONS OF THE LIBRARY; PROVIDING THAT A MEMBER OF THE COMMUNITY MAY OBJECT TO THE PLACEMENT OF A RESOURCE THAT CONTAINS MATERIALS OF A SEXUAL OR A GRAPHIC SEXUAL NATURE; PROVIDING THAT A LIBRARY MAY PROVIDE A CHILD ACCESS TO AGE-APPROPRIATE DIGITAL CONTENT ONLY AT THE DISCRETION OF THE CHILD'S PARENT OR GUARDIAN; AND AMENDING SECTIONS 22-1-301, 22-1-309, 22-1-310, 22-1-326, AND 22-1-712, MCA."

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

**NEW SECTION. Section 1. Availability of collections and resources -- protection of young library patrons.** (1) The legislature intends that free public libraries are for the whole community to have a safe and inviting environment for learning and research.

(2) The library board of trustees shall ensure that the chief librarian develops and maintains cataloging standards for the resources available in the library that comply with the following requirements:

(a) a resource containing material of a sexual nature must be placed in the young adult or adult section of the library, regardless of the targeted or intended reading age for that resource; and

(b) a resource containing material of a graphic sexual nature must be placed in the adult section of the library, regardless of the targeted or intended reading age for that resource.

(3) If a member of the community objects to the placement of a resource in a particular section of the library because the resource is purported to contain material of a sexual nature or a graphic sexual nature, the chief librarian shall move the resource to the section of the library required in subsection (2).

(4) Digital content or resources that are made available in the library must contain age-based content protections that provide access to content of a sexual or a graphic sexual nature according to the same standards required in subsection (2). A library may provide a child with access to age-appropriate digital

1 content only at the discretion of the child's parent or guardian.

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3 **Section 2.** Section 22-1-301, MCA, is amended to read:

4 **"22-1-301. Definitions.** Unless otherwise provided, the following definitions apply in this part:

5 (1) "City" means city or town.

6 (2) "Commission" means the state library commission.

7 (3) "Public library" means a library created under:

8 (a) 22-1-303 through 22-1-317 and [section 1] that provides library services to the public by means  
9 of central facilities, branch facilities, or bookmobiles; or

10 (b) Title 7."

11

12 **Section 3.** Section 22-1-309, MCA, is amended to read:

13 **"22-1-309. Trustees -- powers and duties.** The library board of trustees ~~shall have~~ has exclusive  
14 control of the expenditure of the public library fund, of the construction or lease of library buildings, and of the  
15 operation and care of the library. The library board of trustees of ~~every a~~ public library ~~shall~~:

16 (1) shall adopt bylaws and rules for its own transaction of business and for the government of the  
17 library, not inconsistent with law;

18 (2) shall establish and locate a central public library and may establish branches ~~thereof of the~~  
19 public library at such the places as that are deemed necessary;

20 (3) shall ensure that the chief librarian and other staff display and maintain collections of resources  
21 in each section of the library that contain only the resources that are appropriate for the age of the intended  
22 audience of that section of the library as provided in [section 1];

23 ~~(3)(4)~~ ~~have has~~ the power to contract, including the right to contract with regions, counties, cities,  
24 school districts, educational institutions, the state library, and other libraries, to give and receive library service,  
25 through the boards of ~~such the~~ regions, counties, and cities and ~~the district school boards~~ school districts, and  
26 to pay out or receive funds to pay the costs of ~~such the~~ contracts;

27 ~~(4)(5)~~ ~~have has~~ the power to acquire, by purchase, devise, lease or otherwise, and to own and hold  
28 real and personal property in the name of the city or county, or both, ~~as the case may be,~~ for the use and

purposes of the library and to sell, exchange, or otherwise dispose of ~~property~~ real or personal, property when it is no longer required by the library and to insure the real and personal property of the library;

~~(5)(6)~~ shall pay necessary expenses of members of the library staff when on business of the library;

~~(6)(7)~~ shall prepare an annual budget, indicating what support and maintenance of the public library will be required from public funds, for submission to the appropriate agency of the governing body. A separate budget request ~~shall~~ must be submitted for new construction or for capital improvement of existing library property.

~~(7)(8)~~ shall make an annual report to the governing body of the city or county on the condition and operation of the library, including a financial statement. The trustees shall also provide for the keeping of such records as ~~shall be~~ required by the Montana state library in its request for an annual report from the public libraries and shall submit ~~such an~~ the annual report to the state library.

~~(8)(9)~~ have ~~has~~ the power to accept gifts, grants, donations, devises, or bequests of real or personal property, ~~real or personal~~, from whatever source and to expend or hold, work, and improve ~~the same~~ these for the specific purpose of the gift, grant, donation, devise, or bequest. These gifts, grants, donations, devises, and bequests ~~shall~~ must be kept separate from regular library funds and are not subject to reversion at the end of the fiscal year.

~~(9)(10)~~ may exercise ~~such~~ other powers, not inconsistent with law, necessary for the effective use and management of the library."

**Section 4.** Section 22-1-310, MCA, is amended to read:

**"22-1-310. Chief librarian -- personnel -- compensation.** (1) The board of trustees of ~~each a~~ library shall appoint and set the compensation of the chief librarian, ~~who~~ The chief librarian shall serve as the secretary of the board ~~and shall serve~~ at the pleasure of the board.

(2) With the recommendation of the chief librarian, the board shall employ and discharge ~~such~~ other persons ~~as may be~~ library staff necessary in the administration of the affairs of the library, fix and pay their salaries and compensation, and prescribe their duties.

(3) The chief librarian is responsible for the maintenance of the library's collection of resources in accordance with the requirements of [section 1]."

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2           **Section 5.** Section 22-1-326, MCA, is amended to read:

3           **"22-1-326. State aid to public libraries.** (1) As used in 22-1-326 through 22-1-331, "public library"  
4 means a library created under Title 7 or under 22-1-301 through 22-1-317 and [section 1] or an accredited tribal  
5 college library that provides services to the public.

6           (2) As provided in 22-1-325 through 22-1-329, the commission shall administer state aid to public  
7 libraries and public library districts created and operated under part 7 of this chapter. The purposes of state aid  
8 are to:

9           (a) broaden access to existing information by strengthening public libraries and public library  
10 districts;

11           (b) augment and extend services provided by public libraries and public library districts; and

12           (c) permit new types of library services based on local need.

13           (3) Money appropriated for the purposes of this section may not be used to supplant general  
14 operating funds of recipient public libraries or public library districts. The commission may withhold a distribution  
15 to a library or district that receives less support from a mill levy or local government appropriation than its  
16 average for the preceding 3 fiscal years if the decrease may reasonably be linked to money received or  
17 expected to be received under 22-1-325 through 22-1-329."

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19           **Section 6.** Section 22-1-712, MCA, is amended to read:

20           **"22-1-712. Multijurisdictional public library districts -- administration.** A multijurisdictional public  
21 library district created under the provisions of Title 7, chapter 11, part 10, must be administered according to the  
22 provisions of 22-1-305 through 22-1-317 and [section 1]."

23

24           NEW SECTION. **Section 7. Codification instruction.** [Section 1] is intended to be codified as an  
25 integral part of Title 22, chapter 1, part 3, and the provisions of Title 22, chapter 1, part 3, apply to [section 1].

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