

CHAPTER.....

AN ACT relating to education; prohibiting the board of trustees of a school district, the governing body of a charter school, a school employee or a volunteer and certain persons affiliated with a public library from limiting access to library materials under certain circumstances; authorizing the Board of Regents of the University of Nevada to adopt a policy containing such a prohibition; prohibiting certain actions against certain persons which are intended to limit access to library materials; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a district attorney or city attorney to file a complaint in the district court to have an item or material declared obscene and to enjoin owner and possessor of the item or material from selling, renting, exhibiting, reproducing, manufacturing or distributing it. (NRS 201.241) For these purposes, "obscenity" is defined in existing law as any item, material or performance which: (1) an average person applying contemporary community standards would find, taken as a whole, appeals to prurient interest; (2) taken as a whole, lacks serious literary artistic, political or scientific value; and (3) depicts or describes in a patently offensive way certain sexual acts, excretory functions, sadism or masochism or lewdly exhibits the genitals. (NRS 201.235) **Section 2** of this bill: (1) prohibits the board of trustees of a school district, the governing body of a charter school, a school employee or a volunteer from taking certain actions which limit the access of pupils to library materials of a school library; and (2) sets forth certain circumstances in which access to library materials may be restricted for reasons unrelated to the content of such materials. **Section 2** additionally authorizes a person who meets certain requirements and who objects to the inclusion of any library material in the collection of a school library to petition a court for the removal of the material and authorizes a court to order the removal of such material if the court determines that the material is obscene, based on a definition of obscenity which is substantially similar to the definition of obscenity in existing law. **Section 3.7** of this bill creates similar provisions governing access to materials in a public library.

The Nevada Constitution requires the Nevada Legislature to provide for the establishment of a State University that is controlled by a Board of Regents whose duties are prescribed by law. (Nev. Const. Art. 11, § 4) **Section 3.2** of this bill authorizes the Board of Regents to adopt a policy that prohibits an institution within the Nevada System of Higher Education or an employee of such an institution from limiting the access of students and employees to any library materials of a library at such an institution. **Section 3.2** additionally provides requirements that are similar to those set forth in **section 2** with which such a policy must comply.

Section 3 of this bill makes it a crime, punishable as a category E felony, for any person to use or threaten or attempt to use any force, intimidation, coercion, violence, restraint or undue influence with the intent to: (1) prevent a pupil from using or accessing library materials; or (2) induce or compel the board of trustees of a school district, the governing body of a charter school, a school employee or a volunteer to violate the provisions of **section 2**. **Section 3** further makes it a crime,



punishable as a category E felony, for any person to disseminate any personal identifying information or sensitive information of a member of the board of trustees of a school district, a member of the governing body of a charter school, a school employee, a volunteer or a pupil without consent, knowing that the member, employee, volunteer or pupil could be identified by such information, if: (1) the person disseminates such personal identifying information or sensitive information in retaliation for the victim accessing or allowing a pupil to access library materials from a school library with the intent to aid, assist, encourage, facilitate, further or promote any criminal offense which would be reasonably likely to cause death, bodily injury or stalking or with the intent to cause harm to the member, school employee, volunteer or pupil and with knowledge of or reckless disregard for the reasonable likelihood that the dissemination of the information may cause death, bodily injury or stalking; and (2) the dissemination of the personal identifying information or sensitive information would cause a reasonable person to fear the death, bodily injury or stalking of himself or herself or a close relation or causes the death, bodily injury or stalking of the victim whose information was disseminated or a close relation of the victim. **Sections 3.3 and 3.8** of this bill create similar protections for a member of the Board of Regents, an employee of an institution within the System or a student and a member of a governing body of a public library or a library employee, respectively.

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *Except as otherwise provided in this section, the board of trustees of a school district, the governing body of a charter school, a school employee or a volunteer shall not limit the access of pupils to any library materials of a school library by:*

(a) Removing library materials from the collection of a school library or from circulation;

(b) Moving library materials to other sections of the library or school premises for the purpose of concealing the presence of the materials;

(c) Labeling library materials in a manner that indicates that the board of trustees of a school district, the governing body of a charter school, a school employee or a volunteer finds the content of the library materials to be objectionable; or

(d) Defacing library materials to obscure the contents of the library materials or cause the library materials to be removed from circulation.

2. The provisions of subsection 1 do not prohibit a person from checking library materials out of a school library pursuant to the circulation policies of the school library.



3. *The board of trustees of a school district, the governing body of a charter school or an administrator or school library media specialist of a school may adopt a rule or policy which has the effect of limiting access to library materials by a pupil if:*

(a) The rule or policy:

(1) Imposes a reasonable restriction as to the time, place and manner of accessing library materials;

(2) Is adopted to preserve the safety and security of library materials; or

(3) Is a maintenance or deaccession policy for the removal of library materials which are damaged, duplicative, unused or rarely used, in a format which is inaccessible due to obsolescence or which are otherwise inconsistent with the collections policy of the school library for reasons unrelated to the content of the library material; and

(b) The rule or policy is not based on the content of the library materials or the sex, race, national origin, religion, gender identity or expression, sexual orientation, physical or mental disability, political affiliation or any other distinguishing characteristic or background of:

(1) The subject of the library materials;

(2) The author of the library materials; or

(3) The perceived or intended audience for the library materials.

4. *A person who objects to the inclusion of any library material in the collection of a school library may petition a court of competent jurisdiction to order the removal of the library material from circulation. A court may order the library material to be removed from circulation pursuant to this subsection only if the court determines that the material is obscene. A person may only petition a court pursuant to this subsection if the person:*

(a) Resides in the school district in which the school library which contains the contested library materials is located; and

(b) Is the parent or legal guardian of a pupil enrolled in the school in which the school library which contains the contested library materials is located.

5. *The board of trustees of a school district and the governing body of a charter school shall maintain a list of all of the library materials which have been ordered to be removed from circulation from a school library within the school district or charter school pursuant to subsection 4 and make the list available to any school employee who is involved in the selection and purchase of*



materials for the collection of a school library within the school district or charter school.

6. A school employee or a volunteer shall not be dismissed, disciplined, demoted, involuntarily transferred, retaliated against, investigated, fined or imprisoned for the selection, display or circulation of library materials in accordance with the provisions of this section, including, without limitation, in a library, classroom or other instructional setting.

7. As used in this section:

(a) “Community” means the area from which a jury is or would be selected for the court in which an action is brought pursuant to subsection 4.

(b) “Library materials” includes, without limitation, books, periodicals, pamphlets, journals, newspapers, audio materials, audiovisual materials, instructional materials, maps, databases, government documents, records, photographs and any materials used for instruction.

(c) “Obscene” means any material which:

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

(2) Taken as a whole, lacks serious literary, artistic, political or scientific value; and

(3) Does one of the following:

(I) Depicts or describes in a patently offensive way ultimate sexual acts, normal or perverted, actual or simulated.

(II) Depicts or describes in a patently offensive way masturbation, excretory functions, sadism or masochism.

(III) Lewdly exhibits the genitals.

(d) “School employee” means a licensed or unlicensed person, including, without limitation, a teacher, administrator or school library media specialist, employed by a school, including, without limitation, a charter school.

(e) “Volunteer” means any person who, without compensation, works at, assists with or oversees any activity or event conducted or sponsored by a public school during or outside of school hours, including, without limitation, a person who works in or oversees a school library.

Sec. 3. 1. It is unlawful for any person to use or threaten or attempt to use any force, intimidation, coercion, violence, restraint or undue influence with the intent to:

(a) Prevent a pupil from using or accessing library materials; or



(b) Induce or compel the board of trustees of a school district, the governing body of a charter school, a school employee or a volunteer to violate the provisions of section 2 of this act.

2. The provisions of subsection 1 apply regardless of whether a person uses or threatens or attempts to use force, intimidation, coercion, violence, restraint or undue influence on school property or at a location other than on school property.

3. It is unlawful for a person to disseminate any personal identifying information or sensitive information of a member of the board of trustees of a school district, a member of the governing body of a charter school, a school employee, a volunteer or a pupil without the consent of the member, school employee, volunteer or the parent or legal guardian of the pupil, as applicable, knowing that the member, school employee, volunteer or pupil could be identified by such information, if:

(a) The person disseminates such personal identifying information in retaliation for the victim accessing or allowing a pupil to access library materials from a school library and:

(1) With the intent to aid, assist, encourage, facilitate, further or promote any criminal offense which would be reasonably likely to cause death, bodily injury or stalking; or

(2) With the intent to cause harm to the member, school employee, volunteer or pupil and with knowledge of or reckless disregard for the reasonable likelihood that the dissemination of the information may cause death, bodily injury or stalking; and

(b) The dissemination of the personal identifying information or sensitive information:

(1) Would cause a reasonable person to fear the death, bodily injury or stalking of himself or herself or a close relation; or

(2) Causes the death, bodily injury or stalking of the member, school employee, volunteer or pupil whose information was disseminated or a close relation of the member, school employee, volunteer or pupil.

4. A person who violates the provisions of subsection 1 or 3 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. As used in this section:

(a) "Close relation" means a current or former spouse or domestic partner, parent, child, sibling, stepparent, grandparent or any person who regularly resides in the household or who, within the immediately preceding 6 months, regularly resided in the household.



(b) *“Personal identifying information” has the meaning ascribed to it in NRS 205.4617.*

(c) *“School employee” means a licensed or unlicensed person, including, without limitation, a teacher, administrator or school library media specialist, employed by a school, including, without limitation, a charter school.*

(d) *“Sensitive information” has the meaning ascribed to it in NRS 41.1347.*

(e) *“Stalking” means a violation of NRS 200.575.*

(f) *“Volunteer” has the meaning ascribed to it in section 1 of this act.*

Sec. 3.1. Chapter 396 of NRS is hereby amended by adding thereto the provisions set forth as sections 3.2 and 3.3 of this act.

Sec. 3.2. *1. The Board of Regents may adopt a policy that prohibits an institution within the System or an employee of such an institution from limiting the access of students and employees to any library materials of a library at an institution within the System. A policy adopted pursuant to this section:*

(a) Shall, except as otherwise provided in this section, provide that such access may not be limited by:

(1) Removing library materials from the collection of a library or from circulation;

(2) Moving library materials to other sections of the library or premises for the purpose of concealing the presence of the materials;

(3) Labeling library materials in a manner that indicates that the Board of Regents, the administration of the institution or an employee of the institution finds the content of the library materials to be objectionable; or

(4) Defacing library materials to obscure the contents of the library materials or cause the library materials to be removed from circulation.

(b) Shall not prohibit a person from checking library materials out of a library pursuant to the circulation policies of the library.

(c) Shall include provisions that allow an institution within the System or an employee of such an institution to limit the access of students to library materials of a library at an institution within the System if:

(1) The limitation on access is:

(I) A reasonable restriction as to the time, place and manner of accessing library materials;

(II) Adopted to preserve the safety and security of library materials; or



(III) Pursuant to a maintenance and deaccession policy for the removal of library materials which are damaged, duplicative, unused or rarely used, in a format which is inaccessible due to obsolescence or which are otherwise inconsistent with the collections policy of the library for reasons unrelated to the content of the library material; and

(2) The limitation on access is not based on the content of the library materials or the sex, race, national origin, religion, gender identity or expression, sexual orientation, physical or mental disability, political affiliation or any other distinguishing characteristic or background of:

(I) The subject of the library materials;

(II) The author of the library materials; or

(III) The perceived or intended audience for the library materials.

(d) Shall provide that the only method for a person who objects to the inclusion of any library material in the collection of a library to obtain the removal of the library material is to follow the procedure set forth in subsection 2.

(e) Shall require the Board of Regents to maintain a list of all the library materials which have been removed from circulation from a library of an institution within the System pursuant to subsection 2 and make the list available to any employee of such an institution who is involved in the selection and purchase of materials for the collection of a library of an institution within the System.

(f) Shall include provisions that prohibit the dismissal, disciplining, involuntary transfer or reassignment of an employee of an institution within the System for the selection, display or circulation of library materials in accordance with the provisions of the policy adopted pursuant to this section.

2. A person who objects to the inclusion of any library material in the collection of a library of an institution within the System may petition a court of competent jurisdiction to order the removal of the library material from circulation. A court may order the library material to be removed from circulation pursuant to this subsection only if the court determines that the material is obscene. A person may only petition a court pursuant to this subsection if the person is enrolled in the institution or is an employee of the institution.

3. An employee of an institution within the System shall not be fined or imprisoned for the selection, display or circulation of



library materials in accordance with any policy adopted by the Board of Regents pursuant to this section.

4. As used in this section:

(a) “Community” means the area from which a jury is or would be selected for the court in which an action is brought pursuant to subsection 2.

(b) “Library employee” means an employee of an institution within the System whose primary duties relate to the management and function of a library of an institution within the System.

(c) “Library materials” includes, without limitation, books, periodicals, pamphlets, journals, newspapers, audio materials, audiovisual materials, instructional materials, maps, databases, government documents, records and photographs.

(d) “Obscene” means any material which:

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

(2) Taken as a whole, lacks serious literary, artistic, political or scientific value; and

(3) Does one of the following:

(I) Depicts or describes in a patently offensive way ultimate sexual acts, normal or perverted, actual or simulated.

(II) Depicts or describes in a patently offensive way masturbation, excretory functions, sadism or masochism.

(III) Lewdly exhibits the genitals.

Sec. 3.3. *1. It is unlawful for any person to use or threaten or attempt to use any force, intimidation, coercion, violence, restraint or undue influence with the intent to:*

(a) Prevent a student or employee of an institution within the System from using or accessing library materials; or

(b) Induce or compel the Board of Regents or an employee of an institution within the System to violate the provisions of a policy adopted pursuant to section 3.2 of this act.

2. The provisions of subsection 1 apply regardless of whether a person uses or threatens or attempts to use force, intimidation, coercion, violence, restraint or undue influence on property owned or used by the System or at another location.

3. It is unlawful for a person to disseminate any personal identifying information or sensitive information of a member of the Board of Regents, an employee of an institution within the System or a student without the consent of the member, employee or student, as applicable, knowing that the member, employee or student could be identified by such information if:



(a) The person disseminates such personal identifying information in retaliation for the victim accessing or allowing a student or employee to access library materials from the library of an institution within the System and:

(1) With the intent to aid, assist, encourage, facilitate, further or promote any criminal offense which would be reasonably likely to cause death, bodily injury or stalking; or

(2) With the intent to cause harm to the member, employee or student and with knowledge or reckless disregard for the reasonable likelihood that the dissemination of the information may cause death, bodily injury or stalking; and

(b) The dissemination of the personal identifying information or sensitive information:

(1) Would cause a reasonable person to fear the death, bodily injury or stalking of himself or herself or a close relation; or

(2) Causes the death, bodily injury or stalking of the member, employee or student whose information was disseminated or a close relation of the member, employee or student.

4. A person who violates the provisions of subsection 1 or 3 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. As used in this section:

(a) "Close relation" means a current or former spouse or domestic partner, parent, child, sibling, stepparent, grandparent or any person who regularly resides in the household or who, within the immediately preceding 6 months, regularly resided in the household.

(b) "Personal identifying information" has the meaning ascribed to it in NRS 205.4617.

(c) "Sensitive information" has the meaning ascribed to it in NRS 41.1347.

(d) "Stalking" means a violation of NRS 200.575.

Sec. 3.6. Chapter 379 of NRS is hereby amended by adding thereto the provisions set forth as sections 3.7 and 3.8 of this act.

Sec. 3.7. 1. Except as otherwise provided in this section, the governing body of a public library, a library employee or a municipality shall not limit the access of a person to any library materials of a public library by:

(a) Removing library materials from the collection of a library or from circulation;

(b) Moving library materials to other sections of the library for the purpose of concealing the presence of the materials;



(c) Labeling library materials in a manner that indicates that the governing body of the public library, a library employee or a municipality finds the content of the library materials to be objectionable; or

(d) Defacing library materials to obscure the contents of the library materials or cause the library materials to be removed from circulation.

2. The provisions of subsection 1 do not prohibit a person from checking library materials out of a public library pursuant to the circulation policies of the public library.

3. The governing body of a public library may adopt a rule or policy which has the effect of limiting access to library materials by a person if:

(a) The rule or policy:

(1) Imposes a reasonable restriction as to the time, place and manner of accessing library materials;

(2) Is adopted to preserve the safety and security of library materials; or

(3) Is a maintenance or deaccession policy for the removal of library materials which are damaged, duplicative, unused or rarely used, in a format which is inaccessible due to obsolescence or which are otherwise inconsistent with the collections policy of the public library for reasons unrelated to the content of the library material; and

(b) The rule or policy is not based on the content of the library materials or the sex, race, national origin, religion, gender identity or expression, sexual orientation, physical or mental disability, political affiliation or any other distinguishing characteristic or background of:

(1) The subject of the library materials;

(2) The author of the library materials; or

(3) The perceived or intended audience for the library materials.

4. A person who objects to the inclusion of any library material in the collection of a public library may petition a court of competent jurisdiction to order the removal of the library material from circulation. A court may order the library material to be removed from circulation pursuant to this subsection only if the court determines that the material is obscene. A person may only petition a court pursuant to this subsection if the person is a resident of the municipality served by the public library.

5. The governing body of a public library shall maintain a list of all the library materials which have been removed from



circulation from the public library pursuant to subsection 4 and make the list available to any library employee who is involved in the selection and purchase of materials for the collection of a public library.

6. A library employee shall not be dismissed, disciplined, demoted, involuntarily transferred, retaliated against, investigated, fined or imprisoned for the selection, display or circulation of library materials in accordance with the provisions of this section.

7. As used in this section:

(a) “Community” means the area from which a jury is or would be selected for the court in which an action is brought pursuant to subsection 4.

(b) “Governing body” means the trustees of a consolidated, county or district library, the governing authority of a city library, the regional library board of a regional library or any other executive body which governs the operations of a public library.

(c) “Library employee” means a librarian employed by the public library or a staff member employed by a public library who is not a librarian.

(d) “Library materials” includes, without limitation, books, periodicals, pamphlets, journals, newspapers, audio materials, audiovisual materials, instructional materials, maps, databases, government documents, records and photographs.

(e) “Municipality” means a county, district, city, town or other political subdivision served by a public library.

(f) “Obscene” means any material which:

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

(2) Taken as a whole, lacks serious literary, artistic, political or scientific value; and

(3) Does one of the following:

(I) Depicts or describes in a patently offensive way ultimate sexual acts, normal or perverted, actual or simulated.

(II) Depicts or describes in a patently offensive way masturbation, excretory functions, sadism or masochism.

(III) Lewdly exhibits the genitals.

Sec. 3.8. 1. It is unlawful for any person to use or threaten or attempt to use any force, intimidation, coercion, violence, restraint or undue influence with the intent to:

(a) Prevent a person from using or accessing library materials; or

(b) Induce or compel the governing body of a public library or a library employee to violate the provisions of section 3.7 of this act.



2. The provisions of subsection 1 apply regardless of whether a person uses or threatens or attempts to use force, intimidation, coercion, violence, restraint or undue influence on property owned or used by the public library or at another location.

3. It is unlawful for a person to disseminate any personal identifying information or sensitive information of a member of the governing body of a public library or a library employee without the consent of the member or employee, as applicable, knowing that the member or employee could be identified by such information if:

(a) The person disseminates such personal identifying information in retaliation for the victim accessing or allowing a person to access library materials from the public library and:

(1) With the intent to aid, assist, encourage, facilitate, further or promote any criminal offense which would be reasonably likely to cause death, bodily injury or stalking; or

(2) With the intent to cause harm to the member or employee and with knowledge or reckless disregard for the reasonable likelihood that the dissemination of the information may cause death, bodily injury or stalking; and

(b) The dissemination of the personal identifying information or sensitive information:

(1) Would cause a reasonable person to fear the death, bodily injury or stalking of himself or herself or a close relation; or

(2) Causes the death, bodily injury or stalking of the member or employee whose information was disseminated or a close relation of the member or employee.

4. A person who violates the provisions of subsection 1 or 3 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. As used in this section:

(a) “Close relation” means a current or former spouse or domestic partner, parent, child, sibling, stepparent, grandparent or any person who regularly resides in the household or who, within the immediately preceding 6 months, regularly resided in the household.

(b) “Governing body” has the meaning ascribed to it in section 3.7 of this act.

(c) “Library employee” means a librarian employed by the public library or a staff member employed by a public library who is not a librarian.

(d) “Personal identifying information” has the meaning ascribed to it in NRS 205.4617.



(e) “Sensitive information” has the meaning ascribed to it in NRS 41.1347.

(f) “Stalking” means a violation of NRS 200.575.

Sec. 4. This act becomes effective upon passage and approval.

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