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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 622
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Cutrona

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SUMMARY

- Requires public libraries to prohibit patrons under 18 from borrowing or viewing materials that are harmful to juveniles.
- Withholds Public Library Fund (PLF) moneys from libraries that fail to comply with the bill's requirements.
- Redistributes withheld amounts to other libraries and subdivisions within the same county that are allocated PLF money.

DETAILED ANALYSIS

Concealing matter harmful to juveniles in public libraries

The bill requires each board of public library trustees to adopt a policy that requires each library under its control to (1) prohibit patrons under 18 from borrowing or viewing materials that are harmful to juveniles unless the library has received parental consent with respect to an item to be viewed or borrowed by the patron and (2) conceal materials harmful to juveniles from view so that they are not open to view by juveniles as part of the invited general public.¹

A library may comply with the bill's requirement with respect to matter harmful to juveniles by placing the material behind blinder racks or similar devices that cover at least the lower two-thirds of the material, by wrapping the material, by placing the material behind a

¹ R.C. 3375.68(B).

circulation counter, or by otherwise covering the material or locating it so that the portion that is harmful to juveniles is not open to the view of juveniles.²

Material that is “harmful to juveniles”

Material is considered “harmful to juveniles” under the bill if the material represents nudity, sexual conduct, sexual excitement, or sado-masochistic abuse in any form to which all of the following apply:³

- The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex;
- The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles;
- The material or performance, when considered as a whole, lacks serious literary, artistic, political, and scientific value for juveniles.

For purposes of the definition:

“Juvenile” means an unmarried person under the age of 18.⁴

“Material” means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape, or similar data storage device.⁵

“Nudity” means the showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.⁶

“Performance” means any motion picture, preview, trailer, play, show, skit, dance, or other exhibition performed before an audience.⁷

“Sado-masochistic abuse” means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.⁸

² R.C. 3375.68(C).

³ R.C. 3375.68(A), by reference to R.C. 2907.01(E), not in the bill.

⁴ R.C. 2907.01(I), not in the bill.

⁵ R.C. 2907.01(J), not in the bill.

⁶ R.C. 2907.01(H), not in the bill.

⁷ R.C. 2907.01(K), not in the bill.

⁸ R.C. 2907.01(P), not in the bill.

“**Sexual conduct**” means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.⁹

“**Sexual excitement**” means the condition of human male or female genitals when in a state of sexual stimulation or arousal.¹⁰

Public Library Fund redistribution

The bill allows an Ohio resident who believes a library is not complying with the bill’s requirements regarding material harmful to juveniles to file a complaint with the State Library Board. If the Board, following an investigation, determines that the library is not complying with those requirements, the Board must submit a report with that determination to the county treasurer of any county from which the library receives Public Library Fund (PLF) distributions.¹¹

Under continuing law, every month 1.7% of the total tax revenue credited to the GRF in the previous month is credited to the PLF. Money in the PLF is then distributed to counties, based on population and subject to guaranteed shares and statutory minimums, and further distributed by county budget commissions to local libraries in the county. (County budget commissions are comprised of the county auditor, treasurer, and prosecuting attorney.) The amount each library receives is determined based on the needs of the library or upon an alternative distribution formula adopted by the county. For historic reasons, some PLF funds may also be directed to township park districts, the county, and municipal corporations.¹²

Once a county treasurer receives a report of a library’s noncompliance from the State Library Board, the treasurer must cease PLF payments to that library. The treasurer must distribute withheld funds to the other libraries or subdivisions to which the county allocates PLF funds. Each receiving library or subdivision is allocated a portion of the withheld amount based on that library or subdivision’s proportion of county PLF allocations, excluding the penalized library.¹³

The intra-county PLF redistribution continues until the month after the State Library Board notifies the county treasurer that the penalized library has become compliant with the bill’s requirement. The bill allows such libraries to request reevaluation for compliance, and if the Board determines the library is in compliance, it must promptly issue an addendum to its initial report stating that determination and deliver it to the applicable county treasurer.¹⁴

⁹ R.C. 2907.01(A), not in the bill.

¹⁰ R.C. 2907.01(G), not in the bill.

¹¹ R.C. 3375.68(D)(1).

¹² R.C. 131.51, 5705.32, 5705.321, and 5747.47, not in the bill.

¹³ R.C. 5747.48.

¹⁴ R.C. 3375.68(D)(2) and 5747.48(B).

HISTORY

Action	Date
Introduced	06-03-24
