

Remove Harmful and Obscene Materials From Schools Act

Sample legislation from Liberty Counsel and Liberty Counsel Action

Whereas, Material defined as obscene is not within the area of constitutionally protected speech or press; and,

Whereas, Existing law prohibits the dissemination of materials deemed “obscene” or “harmful” to minors, but exempts from liability materials designated for “educational,” “scientific,” “governmental” and/or “scientific” purposes or persons, organizations and/or institutions disseminating the materials for such purposes;

Whereas, The Legislature of the State of *** declares that materials which are obscene or harmful to minors as defined by state law have no place in schools, libraries, museums or other institutions to which minors have access in this state;

Whereas, The Legislature of the State of *** declares that there is no scientific or educational value to purportedly materials labeled as “educational” with contain matter that is obscene and/or harmful to minors as defined in state law, and

Whereas, The state has a compelling interest in protecting the health, safety and welfare of minors;

Therefore, The Legislature of the State of *** hereby amends Section(s) *** of the laws of the State of ***as follows:

A. **Liability for Schools, Libraries Disseminating Harmful/Obscene Materials to Minors:** Any person affiliated with a public or private elementary, middle, or secondary school, school library or public library in an official capacity or any person affiliated with an organization which provides products or services to schools or libraries in the state which knowingly disseminates to any minor as defined under state material which that person or entity knows, or reasonably should know, to be obscene or harmful to minors as defined under state law is guilty of a [misdemeanor/felony] and shall be fined a sum not exceeding \$*** [and/or subject to imprisonment for a period of *** months]. Each day that any violation occurs or continues shall constitute a separate offense and shall be punished as a separate violation.

B. **No defense for materials labeled for “educational” use:** It shall not be a defense to liability under this act that the materials disseminated were labelled as curriculum, approved for educational use, or otherwise described as for educational, scientific or artistic purposes.

C. **Private right of action:** Any person injured as a result of a violation of this statute may bring a civil action in any court of competent jurisdiction against any public or private elementary middle or secondary school, public library, affiliated entity or any other party which has engaged in or caused another to engage in conduct that violates this statute, to recover:

- (1) A declaratory judgment;
- (2) Injunctive relief;

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- (3) Reasonable attorney's fees and costs;
- (4) Actual, incidental and consequential damages;
- (5) Punitive damages, if appropriate; and
- (6) Any other equitable relief which the court deems proper.

For purposes of this section, a parent of a student enrolled in a school or child patronizing a public library in which the violation occurred is presumed to be a person allowed to bring a private right of action under this section.

*If you wish to get an editable copy of this legislation, please contact
Liberty Counsel and Liberty Counsel Action
www.LCAction.org*