

**TITLE: Remove defenses that allow the dissemination of obscene materials to minors in schools or libraries.**

SUMMARY: FOR AN ACT relating to obscenity offenses; to amend section 28-815, Reissue Revised Statutes of Nebraska; to remove defenses that allow a public or private school or a public or school library to disseminate obscene material.

A BILL FOR AN ACT relating to obscenity offenses; to amend section 28-815, Reissue Revised Statutes of Nebraska; to remove defenses that allow a public or private school or a public or school library to disseminate obscene material.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 28-815, Reissue Revised Statutes of Nebraska, is amended to read:

It shall be a defense to a prosecution under section 28-813 that:

(1) Such person's activity consists of teaching in regularly established and recognized ~~educational institutions, institutions of higher learning, college libraries, university libraries, or galleries or libraries~~, or the publication or use of standard textbooks, films, tapes or visual aids of any such institution, or the practice of licensed practitioners of medicine or of pharmacy in their regular business or profession, or the possession by established institutions of higher learning ~~schools~~ teaching art, or by public art galleries, or artists or models in the necessary line of their art, or to relevant references to, or accounts or portrayal of, nudity, sex, or excretion in ~~religion~~, art, literature, history, science, medicine, counseling services, public health, law, the judicial process, law enforcement, institutions of higher learning, education, public libraries, or news reports and news pictures by any form of news media of general circulation;

(2) Such person has no financial interest in an activity, product, or event entitling such person to participate in the promotion, management, proceeds, or profits of the activity, product, or event, and such person's only connection with the activity, product, or event entitles such person to a reasonable salary or wages for services actually rendered; and

(3) The provisions of sections 28-807 to 28-829 with respect to the exhibition or the possession with the intent to exhibit of any obscene film shall not apply to a motion picture projectionist, usher, or ticket taker acting within the scope of his employment if such projectionist, usher, or ticket taker has no financial interest in the place wherein he is so employed. Such person shall be required to give testimony regarding such employment in all judicial proceedings brought under sections 28-807 to 28-829 when granted immunity by the trial judge.

**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 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;
- (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.