

**SUBSTITUTE FOR
HOUSE BILL NO. 6034**

A bill to create standards and processes for the selection of materials for inclusion in or withdrawal from the collections of certain public libraries; to provide for the powers and duties of certain state and local governmental officers and entities; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "public library freedom
2 to read act".

3 Sec. 2. As used in this act:

4 (a) "Contracted service area" means a jurisdiction for which a
5 public library receives state aid under the state aid to public
6 libraries act, 1977 PA 89, MCL 397.551 to 397.576, or under 1964 PA
7 59, MCL 397.31 to 397.40, pursuant to a contract.

1 (b) "Legal service area" means any of the following:

2 (i) The city, township, or village in which a public library is
3 established under 1877 PA 164, MCL 397.201 to 397.217, by charter
4 or ordinance.

5 (ii) The county in which a county library is established under
6 1917 PA 138, MCL 397.301 to 397.305.

7 (iii) The jurisdiction in which a public library has been
8 established by a local or special act.

9 (c) "Material" means an individual book, magazine, DVD, CD-
10 ROM, or other audio-visual material that is a tangible item or an
11 electronically available item in the public library's collection.
12 Material includes a public library program. Material does not
13 include any of the following:

14 (i) A website available through the public library's computers
15 or internet connection.

16 (ii) An item available through interlibrary loan.

17 (iii) A program not sponsored or operated by the public library.

18 (iv) A label placed on materials.

19 (v) A public library's display or location of its materials.

20 (vi) An item available through databases or electronic services
21 for which the public library does not have direct control or
22 authority for selection.

23 (d) "Public library" means a library, the whole interests of
24 which belong to the general public, lawfully established for free
25 public purposes by any 1 or more counties, cities, townships,
26 villages, or other local governments, or by a general or local act.
27 Public library does not include either of the following:

28 (i) A district library established under the district library
29 establishment act, 1989 PA 24, MCL 397.171 to 397.196.

1 (ii) A special library, including, but not limited to, a
2 professional or technical library or school library.

3 (e) "Request for reconsideration" means a request to remove
4 material from a public library's collection other than through the
5 withdrawal process.

6 (f) "Selection" means the process by which a public library
7 determines which items to include within the public library's
8 collection, through purchase, donation, or other means.

9 (g) "Unusual circumstances" means 1 or more of the following,
10 but only to the extent necessary for the proper processing of a
11 request for reconsideration:

12 (i) The need to examine or review a voluminous number of
13 separate and distinct requests for reconsideration that were
14 submitted at the same time or within the same 30-day period.

15 (ii) The need to provide sufficient time for an individual
16 responsible for reviewing or deciding the request for
17 reconsideration to review the material.

18 (iii) The need to schedule a public library board meeting to
19 address a request for reconsideration.

20 (h) "Withdrawal" means the routine or periodic removal of
21 materials from a public library's collection for reasons stated in
22 the public library's policy.

23 Sec. 3. (1) Subject to section 4, and except as otherwise
24 provided by law, the director or, if there is no director, the
25 chief executive employee working at the public library, has the
26 final responsibility for the selection of materials for inclusion
27 or withdrawal in a public library's collection. The director or
28 chief executive employee may designate another individual to act on
29 the director's or chief executive employee's behalf to assist with

1 selection or withdrawal.

2 (2) By not later than 90 days after the effective date of this
3 act, if a public library does not have a policy in effect that
4 complies with this act, a public library must adopt a policy or
5 amend an existing policy that identifies, at a minimum, all of the
6 following:

7 (a) Standards for selection of material for the public
8 library's collection.

9 (b) Standards for the withdrawal of material from the public
10 library's collection.

11 (c) A process for a request for reconsideration of the
12 inclusion of material in the public library's collection.

13 (d) Conditions that must be met before the public library will
14 review a request for reconsideration, which may include any of the
15 following:

16 (i) The reason for the request for reconsideration of the
17 public library's material. A reason that is not in compliance with
18 this act must not be considered by the public library.

19 (ii) That the individual making the request for reconsideration
20 certifies that the requester has read the entire material before
21 filing the request for reconsideration. If the request for
22 reconsideration involves a program, the request for reconsideration
23 must certify that the requester has attended the program or read
24 the description of the program. If the request for reconsideration
25 involves audio or video material, the request for reconsideration
26 must certify that the requester has listened to or viewed the
27 entire audio or video material.

28 (iii) A request for reconsideration of material may be made only
29 by a resident of the public library's legal service area or

1 contracted service area.

2 (iv) If a request for reconsideration of a material has been
3 determined by the public library, the public library shall not
4 consider a request for reconsideration of that same material within
5 365 days after that determination.

6 (v) Under unusual circumstances, that the public library may
7 extend the period during which the public library must respond to
8 the request for reconsideration.

9 (vi) Any other lawful requirement.

10 (e) A process for determining whether a request for
11 reconsideration complies with section 4(2).

12 Sec. 4. (1) A request for reconsideration may be made to a
13 public library only for material owned or controlled by that public
14 library.

15 (2) A reason or basis for a request for reconsideration cannot
16 be made based on the religion, race, color, national origin, age,
17 sex, sexual orientation, gender identity or expression, height,
18 weight, familial status, or marital status of the author or because
19 the subject matter, content, or viewpoint of the material involves
20 religion, race, color, national origin, age, sex, sexual
21 orientation, gender identity or expression, height, weight,
22 familial status, or marital status.

23 (3) A public library shall not grant a request for
24 reconsideration based on the subject matter, content, or viewpoint
25 of material, unless the material has been adjudicated to be obscene
26 or otherwise unprotected by the First Amendment of the Constitution
27 of the United States or by section 5 of article I of the state
28 constitution of 1963, as determined by a court of competent
29 jurisdiction over the community in which the public library serves.

1 Sec. 5. (1) The attorney general may, on behalf of the Library
2 of Michigan, commence a civil action seeking a mandamus or other
3 action to compel the public library to adopt a policy in compliance
4 with this act.

5 (2) The attorney general, a resident of the public library's
6 legal service area, or a resident of the public library's
7 contracted service area may commence a civil action for any of the
8 following:

9 (a) A temporary or permanent injunction to prevent the public
10 library from unlawful removal of material in violation of this act.

11 (b) A mandamus or other action to compel the public library to
12 return material to the collection that is removed in violation of
13 this act.

14 Enacting section 1. This act does not take effect unless House
15 Bill No. 6035 of the 102nd Legislature is enacted into law.