

18A:34A-1 to 18A:34A-7, 18A:73-33a to 18A:73-33e

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS OF: 2024 **CHAPTER:** 96

NJSA: 18A:34A-1 to 18A:34A-7, 18A:73-33a to 18A:73-33e "Freedom to Read Act"; establishes requirements for library material in public school libraries and public libraries; protects school library staff members and librarians.

BILL NO: A3446 (Substituted for S2421 (SCS))

SPONSOR(S) Drulis, Mitchelle and others

DATE INTRODUCED: 2/1/2024

COMMITTEE: **ASSEMBLY:** Education

SENATE: Education

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 06/28/2024

SENATE: 10/28/2024

DATE OF APPROVAL: 12/9/2024

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (A3446 Acs (ACS) enacted)

ADVANCE LAW Yes

PAMPHLET LAW Yes

A3446

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

REPRINT(S): Yes AED 6/6/24 ACS

TECHNICAL REVIEW: No

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S2421 (SCS)

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

REPRINT(S): Yes SED 9/30/24 SCS

TECHNICAL REVIEW: No

COMMITTEE STATEMENT: **ASSEMBLY:** No
SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Available Upon Request

Susan K. Livio - For South Jersey Times, 'Murphy signs law to rein in book bans, shield librarians Freedom to ReadAct gives state policy role in what's on school shelves.', *South Jersey Times* (online), 11 Dec 2024 001<<https://infoweb.newsbank.com/apps/news/document-view?p=NewsBank&docref=news/19D65691D49E7528>>

L.A. Parker, 'Reading and education are foundations for success (L.A. PARKER COLUMN)', *Trentonian, The* (online), 11Dec 2024 <<https://infoweb.newsbank.com/apps/news/document-view?p=NewsBank&docref=news/19D6900EC31788D0>>

CL/MM

Title 18A.
Subtitle 6.
Part 2.
Chapter 34A.
(New)
Library Materials
§§1-7
C.18A:34A-1
to 18A:34A-7
and §1 Note to
§8
§§8-12
C.18A:73-33a
to 18A:73-33e
§13
Note

P.L. 2024, CHAPTER 96, *approved December 9, 2024*
Assembly Committee Substitute for Assembly, No. 3446

1 AN ACT concerning public school libraries and public libraries and
2 supplementing Title 18A of the New Jersey Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. This act shall be known and may be cited as the "Freedom to
8 Read Act."

9
10 2. The Legislature finds and declares that:
11 a. The freedom to read is a human right, constitutionally
12 protected by the First Amendment of the United States Constitution,
13 and individuals have the right to free inquiry and the right to form
14 their own opinions.

15 b. The freedom to read does not require a person to agree with
16 topics or themes within a material, but instead allows a reader to
17 explore and engage with differing perspectives to form and inform
18 their own views.

19 c. Since Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393
20 U.S. 503 (1969), it has been well established that students do not
21 "shed their constitutional rights to freedom of speech or expression
22 at the schoolhouse gate[.]" and, as such, students have a right to
23 access a diverse range of developmentally relevant information,
24 stories, perspectives, and ideas.

25 d. In Bd. of Ed. v. Pico, 457 U.S. 853 (1982), the United
26 States Supreme Court opined that "local school boards may not
27 remove books from school library shelves simply because they
28 dislike the ideas contained in those books and seek by their removal

1 to ‘prescribe what shall be orthodox in politics, nationalism,
2 religion, or other matters of opinion.’”

3 e. School libraries and public libraries, as centers for voluntary
4 inquiry, play a unique role in promoting intellectual freedom,
5 providing equitable access to learning resources, and promoting
6 democracy by providing service to all regardless of race, ethnicity,
7 creed, age, ability, gender, or socio-economic status.

8 f. School library staff members and librarians are essential
9 members of the community; as trained professionals, they help
10 young people of all backgrounds find and interpret the information
11 they need to succeed in school and prepare for college, careers, and
12 life.

13 g. School library staff members and librarians receive
14 extensive professional training that prepares them to develop and
15 curate collections designed to meet the broad and varied interests
16 and needs of their communities and students, which is based on a
17 variety of factors, including pedagogical value, student interest, and
18 the appropriateness of the material.

19 h. Despite this, school library staff members and librarians
20 have been targeted and harassed for providing young people access
21 to library material.

22 i. Therefore, it is necessary and proper for the Legislature to
23 protect the freedom of New Jersey’s residents to read, for school
24 libraries and public libraries to acquire and maintain materials
25 without external limitations, to recognize that school library staff
26 members and librarians are trained to curate and develop
27 collections, and to ensure school library staff members and
28 librarians are able to perform their duties.

29

30 3. As used in sections 4 through 7 of this act:

31 “Board of education” means a board of education as defined in
32 N.J.S.18A:18A-2, the board of directors of an educational services
33 commission, a board of trustees of a charter school, a board of
34 trustees of a renaissance school project, or any other local education
35 agency.

36 “Censorship” means to block, suppress, or remove library
37 material based on disagreement with a viewpoint, idea, or concept,
38 or solely because an individual finds certain content offensive, but
39 does not include limiting or restricting access to any library
40 material deemed developmentally inappropriate for certain students.

41 “Diverse and inclusive material” means any material that reflects
42 any protected class as enumerated in the "Law Against
43 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.); material
44 produced by an author who is a member of a protected class as
45 enumerated in the "Law Against Discrimination," P.L.1945, c.169
46 (C.10:5-1 et seq.); and material that contains the author's points of
47 view concerning contemporary problems and issues, whether

1 international, national, or local; but excludes content that is
2 inappropriate for grades served by the school library.

3 “Individual with a vested interest” means any teaching staff
4 member employed by the board of education, any parent or
5 guardian of a student enrolled in the school district at the time the
6 removal form required pursuant to section 5 of this act is filed, and
7 any student enrolled in the district at the time the removal form
8 required pursuant to section 5 of this act is filed.

9 “Library material” means any material including, but not limited
10 to, nonfiction and fiction books; magazines; reference books;
11 supplementary titles; multimedia and digital material; software and
12 instructional material and other material not required as part of
13 classroom instruction, belonging to, on loan to, or otherwise in the
14 custody of a school library.

15 “School library staff member” means a school library media
16 specialist, school librarian, any certificated or non-certificated staff
17 member assigned to duties in a school library, or any individual
18 carrying out or assisting with the functions of a school library
19 media specialist or school librarian.

20

21 4. a. A board of education shall adopt a policy on the curation
22 of library material within a school library. The purpose of the
23 curation policy is to: provide standards for the curation of library
24 material; establish criteria for the removal of existing school library
25 material or library material selected for inclusion in the school library;
26 and provide protection against attempts to censor library material.

27 b. When developing the policy, the board shall review the
28 model policy established by the Commissioner of Education
29 pursuant to subsection d. of this section. The board shall have
30 control over the content of the policy, except that the policy shall, at
31 a minimum:

32 (1) recognize that library material should be provided for the
33 interest, information, and enlightenment of all students and should
34 present diverse points of view in the collection as a whole;

35 (2) acknowledge that library material shall not be removed from
36 a school library because of the origin, background, or views of the
37 library material or those contributing to its creation;

38 (3) recognize the importance of school libraries as centers for
39 voluntary inquiry and the dissemination of information and ideas;

40 (4) promote the free expression and free access to ideas by
41 students by prohibiting the censorship of library material;

42 (5) acknowledge that a school library media specialist is
43 professionally trained to curate and develop the school library
44 collection that provides students with access to the widest array of
45 developmentally appropriate library material available to schools;
46 and

1 (6) establish a procedure for a school library staff member to
2 review library material within a school library on an ongoing basis,
3 which shall include, but not be limited to: the library material's
4 relevance; the condition of the library material; the availability of
5 duplicates; the availability of more recent developmentally
6 appropriate material; and the continued demand for the library
7 material.

8 c. In the event a board of education has a policy that complies
9 with the requirements of subsection b. of this section as of the
10 effective date of this act, the board shall not be required to take
11 further action.

12 d. To assist boards of education in developing a policy on the
13 curation of library material within a school library, the
14 commissioner shall develop a model policy. In developing the
15 model policy, the commissioner shall consult with the State
16 Librarian, the New Jersey Association of School Librarians, and the
17 New Jersey School Boards Association. The model policy shall be
18 updated as the commissioner deems necessary.

19 e. A board of education, in consultation with school library
20 staff members, shall have discretion in selecting, purchasing, or
21 acquiring library material for inclusion in the school library.
22 Nothing in this section shall be construed to require a board of
23 education to purchase, or otherwise acquire, library material for a
24 school library.

25 f. Nothing in this section shall be construed to restrict a board
26 of education's authority to select textbooks and school supplies
27 related to the curriculum.

28
29 5. a. A board of education shall adopt a policy establishing a
30 procedure regarding a request for removal of library material within
31 a school library. When developing the policy, the board shall
32 review the model policy established by the Commissioner of
33 Education pursuant to subsection d. of this section.

34 b. The board shall have control over the policy, except that the
35 policy shall, at a minimum:

36 (1) provide for the creation of a request for removal form, based
37 on the model removal form developed by the commissioner
38 pursuant to subsection d. of this section, that may be submitted by
39 an individual with a vested interest to the principal of the school in
40 which the library material is challenged to initiate a review of the
41 material. The form shall require the individual with the vested
42 interest to specify which sections of the library material the
43 individual objects to and an explanation of the reasons for the
44 objection;

45 (2) require the principal or principal's designee to promptly
46 forward the request for removal to the superintendent of the school

1 district. The superintendent or the superintendent's designee shall
2 appoint a review committee, consisting of:

3 (a) the superintendent or the superintendent's designee;
4 (b) the principal of the school in which the library material is
5 challenged or the principal's designee;
6 (c) the school library media specialist or a school library staff
7 member;

8 (d) a representative selected by the board of education;
9 (e) at least one grade-appropriate teacher familiar with the
10 library material, provided the teacher selected is not the individual
11 who submitted the form;

12 (f) a parent or guardian of a student enrolled in the school
13 district, provided the parent or guardian selected is not the
14 individual who submitted the form;

15 (g) if appropriate, and at the discretion of the superintendent, in
16 cases where a student enrolled in the district in grades nine through
17 12 filed the removal form, a student enrolled in the district in grades
18 nine through 12 may volunteer to serve on the review committee, if
19 that student did not file the removal form. The superintendent shall
20 consult with the principal of the school involved in the removal
21 request in making this determination; and

22 (h) any additional members the superintendent deems necessary;

23 (3) require that a challenged library material remain within the
24 school library and available for a student to reserve, check out, or
25 access until there is a final decision reached by the board of
26 education pursuant to paragraph (5) of this subsection;

27 (4) require the review committee to evaluate the request for
28 removal form, review the challenged library material, and report in
29 writing its recommendations on whether to remove the library
30 material to the board of education no later than 60 school days from
31 the date of the next regularly scheduled board of education meeting
32 after receipt of the form. A copy of the committee's report shall
33 also be provided to the individual with a vested interest who filed
34 the form and the principal;

35 (5) require the board of education to review the committee's
36 report and make a final determination on whether the library
37 material is to be removed from the school library, or limited in use.
38 The board shall provide a written statement of reasons for:

39 (a) the removal, limitation, or non-removal of a library material;
40 and

41 (b) any final determination that is contrary to the
42 recommendations of the review committee.

43 The written statement of reasons shall be posted on the board's
44 Internet website in a prominent and easily accessible location
45 within 30 days of the determination.

1 (6) provide that a library material that has been challenged
2 pursuant to paragraphs (1) through (5) of this subsection shall not
3 be subject to a subsequent challenge for at least one year; and

4 (7) permit a school district to consolidate requests for removal of
5 the same challenged library material.

6 c. If a board of education has a policy that complies with the
7 requirements of subsection b. of this section as of the effective date
8 of this act, the board shall not be required to take further action.

9 d. To assist boards of education in developing a policy on the
10 procedure regarding a request for removal of library material within
11 a school library, the commissioner shall develop a model policy and
12 model removal form. In developing the model policy and model
13 removal form, the commissioner shall consult with the State
14 Librarian, the New Jersey Association of School Librarians, and the
15 New Jersey School Boards Association. The model policy and
16 model removal form shall be updated as the commissioner deems
17 necessary.

18 e. A board of education determination issued in accordance
19 with the policy established in subsection b. of this section which
20 denies a request for removal shall not constitute a controversy or
21 dispute pursuant to N.J.S.18A:6-9.

22 f. An individual with a vested interest may file a petition of
23 appeal of the board's final determination to the commissioner
24 through the Office of Controversies and Disputes in accordance
25 with N.J.S.18A:6-9 and the procedures set forth in State Board of
26 Education regulations.

27 g. Nothing in this section shall be construed as creating a
28 separate legal cause of action regarding any determination issued
29 pursuant to the policy established pursuant to subsection a. of this
30 section.

31

32 6. a. A board of education shall not remove library material
33 from a school library in the district because of the origin,
34 background, or views of the library material or those contributing to
35 its creation, and shall not engage in censorship of library material.

36 b. A board of education shall allow a student to reserve or check
37 out any developmentally appropriate library material, including
38 diverse and inclusive material.

39

40 7. A school library staff member who engages in activities as
41 required by sections 4 through 6 of this act shall be immune from
42 civil and criminal liability arising from good faith actions
43 performed pursuant to the provisions of those sections.

44

45 8. As used in sections 9 through 12 of this act:

46 "Censorship" means to block, suppress, or remove library
47 material based on disagreement with a viewpoint, idea, or concept,

1 or solely because an individual finds certain content offensive, but
2 does not include limiting or restricting access to any library
3 material deemed developmentally inappropriate for certain age
4 groups.

5 “Diverse and inclusive material” means material that reflects any
6 protected class as enumerated in the "Law Against Discrimination,"
7 P.L.1945, c.169 (C.10:5-1 et seq.); material produced by an author
8 who is a member of a protected class as enumerated in the "Law
9 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.); and
10 material that contains the author's points of view concerning
11 contemporary problems and issues, whether international, national
12 or local.

13 “Governing body” means a board of trustees, director or other
14 chief administrative officer, a county library commission, or board
15 of county commissioners of a public library.

16 “Individual with a vested interest” means any resident who is
17 served by the public library or resides in a county or municipality
18 where the library is situated.

19 “Library material” means any material including, but not limited
20 to, nonfiction and fiction books; magazines; reference books;
21 supplementary titles; multimedia and digital material; software and
22 instructional material, belonging to, on loan to, or otherwise in the
23 custody of a public library.

24 “Public library” means a library that serves, free of charge, all
25 residents of an area as established pursuant to chapter 33 or chapter
26 54 of Title 40 of the Revised Statutes, and receives financial
27 support, in whole or in part, from public funds; or a library
28 established pursuant to N.J.S.15A:1-1 et seq. and receiving public
29 funds pursuant to R.S.40:54-35.

30

31 9. a. In addition to the duties prescribed in section 18 of
32 P.L.1969, c.158 (C.18A:73-33), the State Librarian, in consultation
33 with the New Jersey Library Association, shall establish a model
34 policy on the curation of library material within a public library.
35 The purpose of the curation policy is to: provide standards for the
36 curation of library material; establish criteria for the removal of
37 existing library material or library material selected for inclusion in the
38 public library; and provide protection against attempts to censor
39 library material.

40 b. The model policy shall, at a minimum:

41 (1) recognize that public libraries serve as centers for voluntary
42 inquiry and the dissemination of information and ideas;

43 (2) promote the free expression and free access to ideas by
44 residents by prohibiting the censorship of library material;

45 (3) acknowledge that library material shall not be removed from
46 a public library because of the origin, background, or views of the
47 library material or those contributing to its creation;

1 (4) recognize that library material should be provided for the
2 interest, information, and enlightenment of all people, and should
3 present diverse points of view in the collection as a whole;

4 (5) acknowledge that a librarian is professionally trained to
5 curate and develop collections that provide residents with access to
6 the widest array of library material available to the public library;
7 and

8 (6) establish a procedure for a librarian to review library material
9 within a public library on an ongoing basis, which shall include, but
10 not be limited to: the library material's relevance; the condition of
11 the library material; the availability of duplicates; the availability of
12 more recent material; and the continued demand for the library
13 material.

14 c. The model policy shall be updated as the State Librarian and
15 New Jersey Library Association deem necessary.

16 d. A governing body of a public library shall adopt the model
17 policy established pursuant to this section. If a public library has a
18 policy that complies with the requirements of subsection b. of this
19 section as of the effective date of this act, the library shall not be
20 required to take further action.

21 e. The governing body of a public library, in consultation with
22 staff members of a public library, including a librarian employed by
23 a public library, shall have discretion in selecting, purchasing, or
24 acquiring library material for inclusion in the public library.
25 Nothing in this section shall be construed to require a governing body
26 of a public library to purchase, or otherwise acquire, library material
27 for a public library.

28

29 10. a. In addition to the duties prescribed in section 18 of
30 P.L.1969, c.158 (C.18A:73-33), the State Librarian, in consultation
31 with the New Jersey Library Association, shall establish a model
32 policy creating a procedure regarding a request for removal of
33 library material within a public library.

34 b. The model policy shall, at a minimum, require:

35 (1) the creation of a request for removal form, based on the
36 model removal form established by the State Librarian, that may be
37 submitted by an individual with a vested interest to the governing
38 body of the public library in which the library material is
39 challenged to initiate a review of the material. The form shall
40 require the individual with the vested interest to specify which
41 sections of the library material the individual objects to and an
42 explanation of the reasons for the objection;

43 (2) the governing body appoint a review committee, consisting
44 of:

45 (a) at least one member of the governing body;

46 (b) a librarian employed by the public library;

- 1 (c) a staff member, who is not a librarian, of the public library
2 that is familiar with the library material;
- 3 (d) a representative selected by the governing body;
- 4 (e) a resident serviced by the public library, provided the
5 resident selected is not the individual who submitted the form; and
- 6 (f) any additional members the governing body deems
7 necessary;
- 8 (3) a challenged library material remain within the public library
9 and available for a resident to reserve, check out, or access until
10 there is a final decision by the review committee;
- 11 (4) the review committee to evaluate the request for removal
12 form, review the challenged library material, and report in writing
13 its recommendations to the governing body on whether to remove
14 the library material within 30 business days from the date of
15 receiving the form. A copy of the committee's report shall also be
16 provided to the individual with a vested interest who filed the form;
17 and
- 18 (5) require the governing body to review the committee's report
19 and make a final determination on whether the library material is to
20 be removed from the public library, or limited in use. The
21 governing body shall provide a written statement of reasons for:
- 22 (a) the removal, limitation, or non-removal of a library material;
23 and
- 24 (b) any final determination that is contrary to the
25 recommendations of the review committee; and
- 26 (6) provide that a library material that has been challenged
27 pursuant to paragraphs (1) through (5) of this subsection shall not
28 be subject to a subsequent challenge for at least one year.
- 29 c. The model policy shall be updated as the State Librarian and
30 New Jersey Library Association deem necessary.
- 31 d. A governing body of a public library shall adopt the model
32 policy established pursuant to this section. In the event a public
33 library has a policy that complies with the requirements of
34 subsection b. of this section as of the effective date of this act, the
35 library shall not be required to take further action.
- 36 e. A governing body determination issued in accordance with the
37 policy established in subsection b. of this section shall be final and
38 binding for a period of five years.
- 39 f. Nothing in this section shall be construed as creating a separate
40 legal cause of action regarding any determination issued pursuant to
41 the policy established pursuant to subsection b. of this section.
- 42
- 43 11. a. A governing body of a public library shall not remove
44 library material from a public library because of the origin,
45 background, or views of the library material or those contributing to
46 its creation, and shall not engage in censorship of library material.

1 b. The governing body of a public library shall allow a resident
2 to reserve or check out any library material, including diverse and
3 inclusive material.

4

5 12. Any staff member of a public library, including a librarian
6 employed by a public library, shall be immune from civil and
7 criminal liability arising from good faith actions performed
8 pursuant to the provisions of sections 9 through 11 of this act.

9

10 13. This act shall take effect one year next following the date of
11 enactment, but the Commissioner of Education and State Librarian
12 may take such anticipatory action as may be necessary for the
13 implementation of the act.

14

15

16

17

18 "Freedom to Read Act"; establishes requirements for library
19 material in public school libraries and public libraries; protects
20 school library staff members and librarians.

CHAPTER 96

AN ACT concerning public school libraries and public libraries and supplementing Title 18A of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.18A:34A-1 Short title.

1. This act shall be known and may be cited as the "Freedom to Read Act."

C.18A:34A-2 Findings, declarations.

2. The Legislature finds and declares that:

- a. The freedom to read is a human right, constitutionally protected by the First Amendment of the United States Constitution, and individuals have the right to free inquiry and the right to form their own opinions.

- b. The freedom to read does not require a person to agree with topics or themes within a material, but instead allows a reader to explore and engage with differing perspectives to form and inform their own views.

- c. Since Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503 (1969), it has been well established that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate” and, as such, students have a right to access a diverse range of developmentally relevant information, stories, perspectives, and ideas.

- d. In Bd. of Ed. v. Pico, 457 U.S. 853 (1982), the United States Supreme Court opined that “local school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books and seek by their removal to ‘prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.’”

- e. School libraries and public libraries, as centers for voluntary inquiry, play a unique role in promoting intellectual freedom, providing equitable access to learning resources, and promoting democracy by providing service to all regardless of race, ethnicity, creed, age, ability, gender, or socio-economic status.

- f. School library staff members and librarians are essential members of the community; as trained professionals, they help young people of all backgrounds find and interpret the information they need to succeed in school and prepare for college, careers, and life.

- g. School library staff members and librarians receive extensive professional training that prepares them to develop and curate collections designed to meet the broad and varied interests and needs of their communities and students, which is based on a variety of factors, including pedagogical value, student interest, and the appropriateness of the material.

- h. Despite this, school library staff members and librarians have been targeted and harassed for providing young people access to library material.

- i. Therefore, it is necessary and proper for the Legislature to protect the freedom of New Jersey’s residents to read, for school libraries and public libraries to acquire and maintain materials without external limitations, to recognize that school library staff members and librarians are trained to curate and develop collections, and to ensure school library staff members and librarians are able to perform their duties.

C.18A:34A-3 Definitions regarding public libraries.

3. As used in sections 4 through 7 of this act:

“Board of education” means a board of education as defined in N.J.S.18A:18A-2, the board of directors of an educational services commission, a board of trustees of a charter school, a board of trustees of a renaissance school project, or any other local education agency.

“Censorship” means to block, suppress, or remove library material based on disagreement with a viewpoint, idea, or concept or solely because an individual finds certain content offensive, but does not include limiting or restricting access to any library material deemed developmentally inappropriate for certain students.

“Diverse and inclusive material” means any material that reflects any protected class as enumerated in the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.); material produced by an author who is a member of a protected class as enumerated in the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.); and material that contains the author's points of view concerning contemporary problems and issues, whether international, national, or local; but excludes content that is inappropriate for grades served by the school library.

“Individual with a vested interest” means any teaching staff member employed by the board of education, any parent or guardian of a student enrolled in the school district at the time the removal form required pursuant to section 5 of this act is filed, and any student enrolled in the district at the time the removal form required pursuant to section 5 of this act is filed.

“Library material” means any material including, but not limited to, nonfiction and fiction books, magazines, reference books, supplementary titles, multimedia and digital material, software and instructional material and other material not required as part of classroom instruction belonging to, on loan to, or otherwise in the custody of a school library.

“School library staff member” means a school library media specialist, school librarian, any certificated or non-certificated staff member assigned to duties in a school library, or any individual carrying out or assisting with the functions of a school library media specialist or school librarian.

C.18A:34A-4 School library, material curation policy.

4. a. A board of education shall adopt a policy on the curation of library material within a school library. The purpose of the curation policy is to: provide standards for the curation of library material, establish criteria for the removal of existing school library material or library material selected for inclusion in the school library, and provide protection against attempts to censor library material.

b. When developing the policy, the board shall review the model policy established by the Commissioner of Education pursuant to subsection d. of this section. The board shall have control over the content of the policy, except that the policy shall, at a minimum:

(1) recognize that library material should be provided for the interest, information, and enlightenment of all students and should present diverse points of view in the collection as a whole;

(2) acknowledge that library material shall not be removed from a school library because of the origin, background, or views of the library material or those contributing to its creation;

(3) recognize the importance of school libraries as centers for voluntary inquiry and the dissemination of information and ideas;

(4) promote the free expression and free access to ideas by students by prohibiting the censorship of library material;

(5) acknowledge that a school library media specialist is professionally trained to curate and develop the school library collection that provides students with access to the widest array of developmentally appropriate library material available to schools; and

(6) establish a procedure for a school library staff member to review library material within a school library on an ongoing basis, which shall include, but not be limited to: the library material's relevance, the condition of the library material, the availability of duplicates, the availability of more recent developmentally appropriate material, and the continued demand for the library material.

c. In the event a board of education has a policy that complies with the requirements of subsection b. of this section as of the effective date of this act, the board shall not be required to take further action.

d. To assist boards of education in developing a policy on the curation of library material within a school library, the commissioner shall develop a model policy. In developing the model policy, the commissioner shall consult with the State Librarian, the New Jersey Association of School Librarians, and the New Jersey School Boards Association. The model policy shall be updated as the commissioner deems necessary.

e. A board of education, in consultation with school library staff members, shall have discretion in selecting, purchasing, or acquiring library material for inclusion in the school library. Nothing in this section shall be construed to require a board of education to purchase, or otherwise acquire, library material for a school library.

f. Nothing in this section shall be construed to restrict a board of education's authority to select textbooks and school supplies related to the curriculum.

C.18A:34A-5 Removal request procedure, school library.

5. a. A board of education shall adopt a policy establishing a procedure regarding a request for removal of library material within a school library. When developing the policy, the board shall review the model policy established by the Commissioner of Education pursuant to subsection d. of this section.

b. The board shall have control over the policy, except that the policy shall, at a minimum:

(1) provide for the creation of a request for removal form, based on the model removal form developed by the commissioner pursuant to subsection d. of this section, that may be submitted by an individual with a vested interest to the principal of the school in which the library material is challenged to initiate a review of the material. The form shall require the individual with the vested interest to specify which sections of the library material the individual objects to and an explanation of the reasons for the objection;

(2) require the principal or principal's designee to promptly forward the request for removal to the superintendent of the school district. The superintendent or the superintendent's designee shall appoint a review committee, consisting of:

(a) the superintendent or the superintendent's designee;

(b) the principal of the school in which the library material is challenged or the principal's designee;

(c) the school library media specialist or a school library staff member;

(d) a representative selected by the board of education;

(e) at least one grade-appropriate teacher familiar with the library material, provided the teacher selected is not the individual who submitted the form;

(f) a parent or guardian of a student enrolled in the school district, provided the parent or guardian selected is not the individual who submitted the form;

(g) if appropriate, and at the discretion of the superintendent, in cases where a student enrolled in the district in grades nine through 12 filed the removal form, a student enrolled in the district in grades nine through 12 may volunteer to serve on the review committee if that student did not file the removal form. The superintendent shall consult with the principal of the school involved in the removal request in making this determination; and

(h) any additional members the superintendent deems necessary;

(3) require that a challenged library material remain within the school library and available for a student to reserve, check out, or access until there is a final decision reached by the board of education pursuant to paragraph (5) of this subsection;

(4) require the review committee to evaluate the request for removal form, review the challenged library material, and report in writing its recommendations on whether to remove the library material to the board of education no later than 60 school days from the date of the next regularly scheduled board of education meeting after receipt of the form. A copy of the committee's report shall also be provided to the individual with a vested interest who filed the form and the principal;

(5) require the board of education to review the committee's report and make a final determination on whether the library material is to be removed from the school library or limited in use. The board shall provide a written statement of reasons for:

(a) the removal, limitation, or non-removal of a library material; and

(b) any final determination that is contrary to the recommendations of the review committee.

The written statement of reasons shall be posted on the board's Internet website in a prominent and easily accessible location within 30 days of the determination.

(6) provide that a library material that has been challenged pursuant to paragraphs (1) through (5) of this subsection shall not be subject to a subsequent challenge for at least one year; and

(7) permit a school district to consolidate requests for removal of the same challenged library material.

c. If a board of education has a policy that complies with the requirements of subsection b. of this section as of the effective date of this act, the board shall not be required to take further action.

d. To assist boards of education in developing a policy on the procedure regarding a request for removal of library material within a school library, the commissioner shall develop a model policy and model removal form. In developing the model policy and model removal form, the commissioner shall consult with the State Librarian, the New Jersey Association of School Librarians, and the New Jersey School Boards Association. The model policy and model removal form shall be updated as the commissioner deems necessary.

e. A board of education determination issued in accordance with the policy established in subsection b. of this section which denies a request for removal shall not constitute a controversy or dispute pursuant to N.J.S.18A:6-9.

f. An individual with a vested interest may file a petition of appeal of the board's final determination to the commissioner through the Office of Controversies and Disputes in accordance with N.J.S.18A:6-9 and the procedures set forth in State Board of Education regulations.

g. Nothing in this section shall be construed as creating a separate legal cause of action regarding any determination issued pursuant to the policy established pursuant to subsection a. of this section.

C.18A:34A-6 Censorship of school library material prohibited, right to reserve, check out.

6. a. A board of education shall not remove library material from a school library in the district because of the origin, background, or views of the library material or those contributing to its creation, and shall not engage in censorship of library material.

b. A board of education shall allow a student to reserve or check out any developmentally appropriate library material, including diverse and inclusive material.

C.18A:34A-7 Immunity, school library staff.

7. A school library staff member who engages in activities as required by sections 4 through 6 of this act shall be immune from civil and criminal liability arising from good faith actions performed pursuant to the provisions of those sections.

C.18A:73-33a Definitions regarding public libraries.

8. As used in sections 9 through 12 of this act:

“Censorship” means to block, suppress, or remove library material based on disagreement with a viewpoint, idea, or concept or solely because an individual finds certain content offensive, but does not include limiting or restricting access to any library material deemed developmentally inappropriate for certain age groups.

“Diverse and inclusive material” means material that reflects any protected class as enumerated in the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.); material produced by an author who is a member of a protected class as enumerated in the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.); and material that contains the author's points of view concerning contemporary problems and issues, whether international, national or local.

“Governing body” means a board of trustees, director or other chief administrative officer, a county library commission, or board of county commissioners of a public library.

“Individual with a vested interest” means any resident who is served by the public library or resides in a county or municipality where the library is situated.

“Library material” means any material including, but not limited to, nonfiction and fiction books, magazines, reference books, supplementary titles, multimedia and digital material, and software and instructional material belonging to, on loan to, or otherwise in the custody of a public library.

“Public library” means a library that serves, free of charge, all residents of an area as established pursuant to chapter 33 or chapter 54 of Title 40 of the Revised Statutes and receives financial support, in whole or in part, from public funds or a library established pursuant to N.J.S.15A:1-1 et seq. and receiving public funds pursuant to R.S.40:54-35.

C.18A:73-33b Public library, material curation policy.

9. a. In addition to the duties prescribed in section 18 of P.L.1969, c.158 (C.18A:73-33), the State Librarian, in consultation with the New Jersey Library Association, shall establish a model policy on the curation of library material within a public library. The purpose of the curation policy is to: provide standards for the curation of library material; establish criteria for the removal of existing library material or library material selected for inclusion in the public library; and provide protection against attempts to censor library material.

b. The model policy shall, at a minimum:

(1) recognize that public libraries serve as centers for voluntary inquiry and the dissemination of information and ideas;

(2) promote the free expression and free access to ideas by residents by prohibiting the censorship of library material;

(3) acknowledge that library material shall not be removed from a public library because of the origin, background, or views of the library material or those contributing to its creation;

(4) recognize that library material should be provided for the interest, information, and enlightenment of all people and should present diverse points of view in the collection as a whole;

(5) acknowledge that a librarian is professionally trained to curate and develop collections that provide residents with access to the widest array of library material available to the public library; and

(6) establish a procedure for a librarian to review library material within a public library on an ongoing basis, which shall include, but not be limited to: the library material's relevance; the condition of the library material; the availability of duplicates; the availability of more recent material; and the continued demand for the library material.

c. The model policy shall be updated as the State Librarian and New Jersey Library Association deem necessary.

d. A governing body of a public library shall adopt the model policy established pursuant to this section. If a public library has a policy that complies with the requirements of subsection b. of this section as of the effective date of this act, the library shall not be required to take further action.

e. The governing body of a public library, in consultation with staff members of a public library, including a librarian employed by a public library, shall have discretion in selecting, purchasing, or acquiring library material for inclusion in the public library. Nothing in this section shall be construed to require a governing body of a public library to purchase, or otherwise acquire, library material for a public library.

C.18A:73-33c Removal request procedure, public library.

10. a. In addition to the duties prescribed in section 18 of P.L.1969, c.158 (C.18A:73-33), the State Librarian, in consultation with the New Jersey Library Association, shall establish a model policy creating a procedure regarding a request for removal of library material within a public library.

b. The model policy shall, at a minimum, require:

(1) the creation of a request for removal form, based on the model removal form established by the State Librarian, that may be submitted by an individual with a vested interest to the governing body of the public library in which the library material is challenged to initiate a review of the material. The form shall require the individual with the vested interest to specify which sections of the library material the individual objects to and an explanation of the reasons for the objection;

(2) the governing body appoint a review committee, consisting of:

(a) at least one member of the governing body;

(b) a librarian employed by the public library;

(c) a staff member, who is not a librarian, of the public library that is familiar with the library material;

(d) a representative selected by the governing body;

(e) a resident serviced by the public library, provided the resident selected is not the individual who submitted the form; and

(f) any additional members the governing body deems necessary;

(3) a challenged library material remain within the public library and available for a resident to reserve, check out, or access until there is a final decision by the review committee;

(4) the review committee to evaluate the request for removal form, review the challenged library material, and report in writing its recommendations to the governing body on whether to remove the library material within 30 business days from the date of receiving the form. A copy of the committee's report shall also be provided to the individual with a vested interest who filed the form; and

(5) require the governing body to review the committee's report and make a final determination on whether the library material is to be removed from the public library or limited in use. The governing body shall provide a written statement of reasons for:

(a) the removal, limitation, or non-removal of a library material; and

(b) any final determination that is contrary to the recommendations of the review committee; and

(6) provide that a library material that has been challenged pursuant to paragraphs (1) through (5) of this subsection shall not be subject to a subsequent challenge for at least one year.

c. The model policy shall be updated as the State Librarian and New Jersey Library Association deem necessary.

d. A governing body of a public library shall adopt the model policy established pursuant to this section. In the event a public library has a policy that complies with the requirements of subsection b. of this section as of the effective date of this act, the library shall not be required to take further action.

e. A governing body determination issued in accordance with the policy established in subsection b. of this section shall be final and binding for a period of five years.

f. Nothing in this section shall be construed as creating a separate legal cause of action regarding any determination issued pursuant to the policy established pursuant to subsection b. of this section.

C.18A:73-33d Censorship of public library material prohibited, right to reserve, check out.

11. a. A governing body of a public library shall not remove library material from a public library because of the origin, background, or views of the library material or those contributing to its creation and shall not engage in censorship of library material.

b. The governing body of a public library shall allow a resident to reserve or check out any library material, including diverse and inclusive material.

C.18A:73-33e Immunity, public library staff.

12. Any staff member of a public library, including a librarian employed by a public library, shall be immune from civil and criminal liability arising from good faith actions performed pursuant to the provisions of sections 9 through 11 of this act.

13. This act shall take effect one year next following the date of enactment, but the Commissioner of Education and State Librarian may take such anticipatory action as may be necessary for the implementation of the act.

Approved December 9, 2024.

ASSEMBLY, No. 3446

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED FEBRUARY 1, 2024

Sponsored by:

Assemblywoman MITCHELLE DRULIS

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Co-Sponsored by:

Assemblywoman Reynolds-Jackson, Assemblyman Freiman,

Assemblywoman Hall, Assemblymen Atkins, Calabrese, Assemblywomen

Quijano, Haider, Swain, Assemblyman Verrelli, Assemblywoman Park,

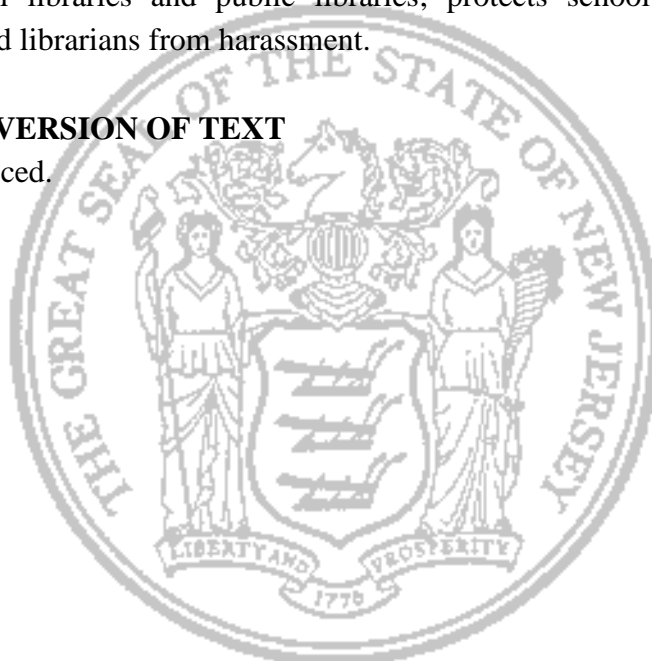
Assemblyman Danielsen and Assemblywoman Bagolie

SYNOPSIS

"Freedom to Read Act"; establishes requirements for library material in public school libraries and public libraries; protects school library media specialists and librarians from harassment.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/6/2024)

1 AN ACT concerning public school libraries and public libraries,
2 supplementing Title 18A of the New Jersey Statutes, and
3 amending N.J.S.2C:34-3 and P.L.1945, c.169.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) Sections 1 through 12 of P.L. , c.
9 (C.) (pending before the Legislature as this bill) shall be
10 known and may be cited as the "Freedom to Read Act."

11
12 2. (New section) The Legislature finds and declares that:

13 a. The freedom to read is a human right, constitutionally
14 protected by the First Amendment of the United States Constitution,
15 and individuals have the right to free inquiry and the right to form
16 their own opinions.

17 b. The freedom to read does not require a person to agree with
18 topics or themes within a material, but instead allows a reader to
19 explore and engage with differing perspectives to form and inform
20 their own views.

21 c. Since Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393
22 U.S. 503 (1969), it has been well established that students do not
23 "shed their constitutional rights to freedom of speech or expression
24 at the schoolhouse gate[,]" and, as such, students have a right to
25 access a diverse range of age-relevant information, stories,
26 perspectives, and ideas.

27 d. In Bd. of Ed. v. Pico, 457 U.S. 853 (1982), the United
28 States Supreme Court recognized that school libraries are
29 "completely voluntary on the part of students[,]" a student's
30 selection of books from a school library "is entirely a matter of free
31 choice[,]" and the school library affords a student "an opportunity
32 at self-education and individual enrichment that is wholly optional."

33 e. School libraries and public libraries, as centers for voluntary
34 inquiry, play a unique role in promoting intellectual freedom,
35 providing equitable access to learning resources, and promoting
36 democracy by providing service to all regardless of race, ethnicity,
37 creed, age, ability, gender, or socio-economic status.

38 f. School library media specialists and librarians are essential
39 members of the community; as trained professionals, they help
40 young people of all backgrounds find and interpret the information
41 they need to succeed in school and prepare for college, careers, and
42 life.

43 g. School library media specialists and librarians receive
44 extensive professional training that prepares them to develop and
45 curate collections designed to meet the broad and varied interests

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 and needs of their communities and students, which is based on a
2 variety of factors, including pedagogical value, student interest, and
3 the age-appropriateness of the material.

4 h. Despite this, school library media specialists and librarians
5 have been targeted, harassed, and defamed for providing young
6 people access to library material.

7 i. Therefore, it is necessary and proper for the Legislature to
8 protect the freedom of New Jersey's residents to read, for school
9 libraries and public libraries to acquire and maintain materials
10 without external limitations, to recognize that school library media
11 specialists and librarians are trained to curate and develop
12 collections, and to protect school library media specialists and
13 librarians from unnecessary and unwarranted harassment and
14 defamation for performance of their duties.

15

16 3. (New section) As used in sections 4 through 7
17 of P.L. , c. (C.) (pending before the
18 Legislature as this bill):

19 "Diverse and inclusive material" means any material that reflects
20 any protected class as enumerated in the "Law Against
21 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.); material
22 produced by an author notwithstanding the author's membership in
23 a protected class as enumerated in the "Law Against
24 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.); and material
25 that contains the author's points of view concerning contemporary
26 problems and issues, whether international, national, or local; but
27 excludes content that is inappropriate for grades and age groups
28 served by the school library.

29 "Emotional distress" means significant mental suffering or
30 distress.

31 "Harassment" or "harasses" means a singular act that is severe or
32 pervasive, or a series of acts over any period of time directed at a
33 specific person that serves no legitimate purpose and would cause,
34 or has caused, a reasonable person to suffer emotional distress.

35 "Library material" means any material including, but not limited
36 to, nonfiction and fiction books; magazines; reference books;
37 supplementary titles; multimedia and digital material; software and
38 instructional material and other material not required as part of
39 classroom instruction, belonging to, on loan to, or otherwise in the
40 custody of a school library.

41

42 4. (New section) a. A board of education shall adopt a policy
43 on the curation of library material within a school library. When
44 developing the policy, the board shall review the model policy
45 established by the Commissioner of Education pursuant to
46 subsection b. of this section. The board shall have control over the
47 content of the policy, except that the policy shall, at a minimum:

- 1 (1) recognize that library material should be provided for the
2 interest, information, and enlightenment of all students and should
3 present diverse points of view in the collection as a whole;
- 4 (2) require student access to age- and grade-appropriate diverse
5 and inclusive material;
- 6 (3) acknowledge that library material should not be excluded
7 from a school library because of the origin, background, or views of
8 those contributing to its creation;
- 9 (4) provide access to library material that is relevant to the
10 research, independent reading interests, and educational needs of
11 students based on a student's age, development, or grade level;
- 12 (5) recognize the importance of school libraries as centers for
13 voluntary inquiry and the dissemination of information and ideas;
- 14 (6) promote the free expression and free access to ideas by
15 students by prohibiting the censorship of library material;
- 16 (7) acknowledge that a school library media specialist is
17 professionally trained to curate and develop the school library
18 collection that provides students with access to the widest array of
19 age- and grade-appropriate library material available to schools; and
20 (8) establish a procedure for a school library media specialist to
21 review library material within a school library on an ongoing basis,
22 which shall include, but not be limited to: the library material's
23 relevance; the condition of the library material; the availability of
24 duplicates; the availability of more recent age; or grade-appropriate
25 material; and the continued demand for the library material.
- 26 b. To assist boards of education in developing a policy on the
27 curation of library material within a school library, the
28 commissioner shall develop a model policy. In developing the
29 model policy, the commissioner shall consult with the State
30 Librarian and the New Jersey Association of School Librarians.
31 The model policy shall be updated as the commissioner deems
32 necessary.
- 33
- 34 5. (New section) a. A board of education shall adopt a policy
35 establishing a procedure regarding a request for removal of library
36 material within a school library.
- 37 b. The board shall have control over the policy, except that the
38 policy shall, at a minimum:
 - 39 (1) provide for the creation of a request for removal form that
40 may be submitted by an individual with a vested interest to the
41 principal of the school in which the library material is challenged to
42 initiate a review of the material. An individual with a vested
43 interest shall include any teaching staff member employed by the
44 board of education, any parent or guardian of a student enrolled in
45 the school district at the time the form is filed, and any student
46 enrolled in the district at the time the form is filed;

1 (2) require the principal or principal's designee to appoint a
2 review committee within 10 school days of receiving a request for
3 removal form, consisting of:

- 4 (a) the principal or the principal's designee;
- 5 (b) the school library media specialist or a teaching staff
6 member similarly trained;
- 7 (c) a representative selected by the board of education;
- 8 (d) at least one grade-appropriate teacher familiar with the
9 library material, provided the teacher selected is not the individual
10 who submitted the form;
- 11 (e) a parent or guardian of a student enrolled in the school
12 district, provided the parent or guardian selected is not the
13 individual who submitted the form;
- 14 (f) if the individual who submitted the form is enrolled in
15 grades nine through 12, a student enrolled in the district, provided
16 the student selected is not the individual who submitted the form;
17 and

18 (g) any additional members the principal deems necessary;

19 (3) require that a challenged library material remain within the
20 school library and available for a student to reserve, check out, or
21 access until there is a final decision reached by the board of
22 education pursuant to paragraph (5) of this subsection;

23 (4) require the review committee evaluate the request for
24 removal form, review the challenged library material, and report its
25 recommendations on whether to remove the library material to the
26 board of education within 30 school days from the date of receiving
27 the form. A copy of the committee's report shall also be provided
28 to the individual with a vested interest who filed the form and the
29 principal; and

30 (5) require the board of education to review the committee's
31 report and make a final determination on whether the library
32 material is to be removed from the school library. The board shall
33 provide a written statement of reasons for:

- 34 (a) the removal or non-removal of a library material; and
- 35 (b) any final determination that is contrary to the
36 recommendations of the review committee.

37

38 6. (New section) a. Notwithstanding any other provision of
39 law to the contrary, a board of education shall ensure that each
40 school in the district includes diverse and inclusive material as part
41 of its library material.

42 b. A board of education shall allow a student to reserve, check
43 out, or access any age- and grade-appropriate library material,
44 including diverse and inclusive material.

45

46 7. (New section) a. A school library media specialist or any
47 other teaching staff member that engages in activities as required by
48 sections 4 through 6 of P.L. , c. (C.) (pending

1 before the Legislature as this bill) shall be immune from criminal
2 and civil liability arising from good faith actions performed
3 pursuant to the provisions of those sections.

4 b. (1) A school library media specialist or any other teaching
5 staff member that engages in activities as required by sections 4
6 through 6 of P.L. , c. (C.) (pending before
7 the Legislature as this bill) shall have a civil cause of action for
8 emotional distress, defamation, libel, slander, damage to reputation,
9 or any other relevant tort, against any person who harasses the
10 school library media specialist or any other teaching staff member
11 for complying with the provisions of those sections.

12 (2) If the school library media specialist or any other teaching
13 staff member that engages in activities as required by sections 4
14 through 6 of P.L. , c. (C.) (pending before
15 the Legislature as this bill) is the prevailing party in the civil cause
16 of action, the school library media specialist or teaching staff
17 member shall be entitled to an award of any reasonable attorney's
18 fees and costs of suit incurred, and any injunctive relief as the court
19 may deem necessary to avoid the defendant's continued violation.

20

21 8. (New section) As used in sections 9 through 12 of P.L. , c.
22 (C.) (pending before the Legislature as this bill):

23 "Diverse and inclusive material" means material that reflects any
24 protected class as enumerated in the "Law Against Discrimination,"
25 P.L.1945, c.169 (C.10:5-1 et seq.); material produced by an author
26 notwithstanding the author's membership in a protected class as
27 enumerated in the "Law Against Discrimination," P.L.1945, c.169
28 (C.10:5-1 et seq.); and material that contains the author's points of
29 view concerning contemporary problems and issues, whether
30 international, national or local.

31 "Emotional distress" means significant mental suffering or
32 distress.

33 "Governing body" means a board of trustees, director or other
34 chief administrative officer, a county library commission, or board
35 of county commissioners of a public library.

36 "Harassment" or "harasses" means a singular act that is severe or
37 pervasive, or a series of acts over any period of time directed at a
38 specific person that serves no legitimate purpose and would cause,
39 or has caused, a reasonable person to suffer emotional distress.

40 "Library material" means any material including, but not limited
41 to, nonfiction and fiction books; magazines; reference books;
42 supplementary titles; multimedia and digital material; software and
43 instructional material, belonging to, on loan to, or otherwise in the
44 custody of a public library.

45 "Public library" means a library that serves, free of charge, all
46 residents of an area as established pursuant to chapter 33 or chapter
47 54 of Title 40 of the Revised Statutes, and receives financial
48 support, in whole or in part, from public funds; or a library

1 established pursuant to N.J.S.15A:1-1 et seq. and receiving public
2 funds pursuant to R.S.40:54-35.

3

4 9. (New section) a. In addition to the duties prescribed in
5 section 18 of P.L.1969, c.158 (C.18A:73-33), the State Librarian
6 shall establish a model policy on the curation of library material
7 within a public library. In developing the model policy, the State
8 Librarian shall consult with the New Jersey Library Association.

9 b. The model policy shall, at a minimum:

10 (1) recognize that public libraries serve as centers for voluntary
11 inquiry and the dissemination of information and ideas;

12 (2) promote the free expression and free access to ideas by
13 residents by prohibiting the censorship of library material;

14 (3) acknowledge that library material should not be excluded
15 from a public library because of the origin, background, or views of
16 those contributing to its creation;

17 (4) require that residents be provided access to diverse and
18 inclusive material;

19 (5) recognize that library material should be provided for the
20 interest, information, and enlightenment of all people, and should
21 present diverse points of view in the collection as a whole;

22 (6) acknowledge that a librarian is professionally trained to
23 curate and develop collections that provide residents with access to
24 the widest array of library material available to the public library;
25 and

26 (7) establish a procedure for a librarian to review library
27 material within a public library on an ongoing basis, which shall
28 include, but not be limited to: the library material's relevance; the
29 condition of the library material; the availability of duplicates; the
30 availability of more recent material; and the continued demand for
31 the library material.

32 c. The model policy shall be updated as the State Librarian
33 deems necessary.

34

35 10. (New section) a. In addition to the duties prescribed in
36 section 18 of P.L.1969, c.158 (C.18A:73-33), the State Librarian
37 shall establish a model policy establishing a procedure regarding a
38 request for removal of library material within a public library. In
39 developing the model policy, the State Librarian shall consult with
40 the New Jersey Library Association.

41 b. The model policy shall, at a minimum, require:

42 (1) the creation of a request for removal form that may be
43 submitted by an individual with a vested interest to the governing
44 body of the public library in which the library material is
45 challenged to initiate a review of the material. An individual with a
46 vested interest shall include any resident who is served by the
47 public library;

1 (2) the governing body appoint a review committee within 10
2 business days of receiving a request for removal form, consisting
3 of;

- 4 (a) at least one member of the governing body;
- 5 (b) a librarian employed by the public library;
- 6 (c) a staff member, who is not a librarian, of the public library
7 that is familiar with the library material;
- 8 (d) a representative selected by the governing body;
- 9 (e) a resident serviced by the public library, provided the
10 resident selected is not the individual who submitted the form; and
- 11 (f) any additional members the governing body deems
12 necessary;

13 (3) a challenged library material remain within the public library
14 and available for a resident to reserve, check out, or access until
15 there is a final decision by the review committee;

16 (4) the review committee evaluate the request for removal form,
17 review the challenged library material, and report its
18 recommendations to the governing body on whether to remove the
19 library material within 30 business days from the date of receiving
20 the form. A copy of the committee's report shall also be provided
21 to the individual with a vested interest who filed the form; and

22 (5) require the governing body to review the committee's report
23 and make a final determination on whether the library material is to
24 be removed from the public library. The board shall provide a
25 written statement of reasons for:

- 26 (a) the removal or non-removal of a library material; and
- 27 (b) any final determination that is contrary to the
28 recommendations of the review committee.

29
30 11. (New section) a. Notwithstanding any State or federal law to
31 the contrary, a governing body of a public library shall include
32 diverse and inclusive material as part of its library material. The
33 governing body of a public library shall provide a resident access to
34 all library material, including diverse and inclusive material.

35 b. A governing body of a public library shall adopt the policies
36 established by the State Librarian pursuant to sections 9 and 10
37 of P.L. , c. (C. and C.) (pending before the
38 Legislature as this bill).

39
40 12. (New section) a. Any staff member of a public library,
41 including a librarian employed by a public library, shall be immune
42 from criminal and civil liability arising from good faith actions
43 performed pursuant to the provisions of section 11 of P.L. ,
44 c. (C.) (pending before the Legislature as this bill).

45 b. (1) Any staff member of a public library, including a
46 librarian employed by a public library, shall have a civil cause of
47 action for emotional distress, defamation, libel, slander, damage to
48 reputation, or any other relevant tort, against any person who

1 harasses the staff member for complying with the provisions of
2 section 11 of P.L. _____, c. _____ (C. _____) (pending before
3 the Legislature as this bill).

4 (2) If the staff member or librarian employed by a public library
5 is the prevailing party in the civil cause of action, the library staff
6 member shall be entitled to an award of any reasonable attorney's
7 fees and costs of suit incurred, and any injunctive relief as the court
8 may deem necessary to avoid the defendant's continued violation.

9

10 13. N.J.S.2C:34-3 is amended to read as follows:

11 2C:34-3. Obscenity For Persons Under 18.

12 a. Definitions for purposes of this section:

13 (1) "Obscene material" means any description, narrative
14 account, display, depiction of a specified anatomical area or
15 specified sexual activity contained in, or consisting of, a picture or
16 other representation, publication, sound recording, live performance
17 or film, which by means of posing, composition, format or animated
18 sensual details, emits sensuality with sufficient impact to
19 concentrate prurient interest on the area or activity.

20 (2) "Obscene film" means any motion picture film or preview or
21 trailer to a film, not including newsreels portraying actual current
22 events or pictorial news of the day, in which a scene, taken by
23 itself:

24 (a) Depicts a specified anatomical area or specified sexual
25 activity, or the simulation of a specified sexual activity, or
26 verbalization concerning a specified sexual activity; and

27 (b) Emits sensuality sufficient, in terms of the duration and
28 impact of the depiction, to appeal to prurient interest.

29 (3) "Specified anatomical area" means:

30 (a) Less than completely and opaquely covered human genitals,
31 pubic region, buttock or female breasts below a point immediately
32 above the top of the areola; or

33 (b) Human male genitals in a discernibly turgid state, even if
34 covered.

35 (4) "Specified sexual activity" means:

36 (a) Human genitals in a state of sexual stimulation or arousal; or

37 (b) Any act of human masturbation, sexual intercourse or
38 deviate sexual intercourse; or

39 (c) Fondling or other erotic touching of covered or uncovered
40 human genitals, pubic region, buttock or female breast.

41 (5) "Knowingly" means:

42 (a) Having knowledge of the character and content of the
43 material or film described herein; or

44 (b) Having failed to exercise reasonable inspection which would
45 disclose its character and content.

46 (6) "Exhibit" means the sale of admission to view obscene
47 material.

48 (7) "Show" means cause or allow to be seen.

1 b. Promoting obscene material.

2 (1) A person who knowingly sells, distributes, rents or exhibits
3 to a person under 18 years of age obscene material is guilty of a
4 crime of the third degree.

5 (2) A person who knowingly shows obscene material to a person
6 under 18 years of age with the knowledge or purpose to arouse,
7 gratify or stimulate himself or another is guilty of a crime of the
8 third degree if the person showing the obscene material is at least
9 four years older than the person under 18 years of age viewing the
10 material.

11 c. Admitting to exhibition of obscene film.

12 (1) Any person who knowingly admits a person under 18 years
13 of age to a theatre then exhibiting an obscene film is guilty of a
14 crime of the third degree.

15 (2) A person who knowingly shows an obscene film to a person
16 under 18 years of age with the knowledge or purpose to arouse,
17 gratify or stimulate himself or another is guilty of a crime of the
18 third degree if the person showing the obscene film is at least four
19 years older than the person under 18 years of age viewing the film.

20 d. Presumption of knowledge and age.

21 The requisite knowledge with regard to the character and content
22 of the film or material and of the age of the person is presumed in
23 the case of an actor who sells, distributes, rents, exhibits or shows
24 obscene material to a person under 18 years of age or admits to a
25 film obscene for a person under 18 years of age a person who is
26 under 18 years of age.

27 e. Defenses.

28 (1) It is an affirmative defense to a prosecution under
29 subsections b. and c. which the defendant must prove by a
30 preponderance of evidence that:

31 (a) The person under age 18 falsely represented in or by writing
32 that he was age 18 or over;

33 (b) The person's appearance was such that an individual of
34 ordinary prudence would believe him to be age 18 or over; and

35 (c) The sale, distribution, rental, showing or exhibition to or
36 admission of the person was made in good faith relying upon such
37 written representation and appearance and in the reasonable belief
38 that he was actually age 18 or over.

39 (2) It is an affirmative defense to a prosecution under subsection
40 c. that the defendant is an employee in a motion picture theatre who
41 has no financial interest in that motion picture theatre other than his
42 wages and has no decision-making authority or responsibility with
43 respect to the selection of the motion picture show which is
44 exhibited.

45 (3) (a) It is an affirmative defense to a prosecution under
46 subsection b. that the defendant is a teaching staff member,
47 including a school library media specialist, who is engaged in the
48 performance of the person's duties and complying with the

1 provisions of sections 1 through 7 of P.L. _____, c.
2 (C. _____) (pending before the Legislature as this bill). As used
3 in this paragraph, “teaching staff member” has the meaning set forth
4 in N.J.S.18A:1-1.

5 (b) It is an affirmative defense to a prosecution under subsection
6 b. that the defendant is a staff member of a public library, including
7 a librarian employed by a public library who is engaged in the
8 performance of the person’s duties and complying with the
9 provisions of sections 8 through 12 of P.L. _____,
10 c. _____ (C. _____) (pending before the Legislature as this bill).
11 As used in this paragraph, “public library” means a library that
12 serves, free of charge, all residents of an area as established
13 pursuant to chapter 33 or chapter 54 of Title 40 of the New Jersey
14 Statutes, and receives financial support, in whole or in part, from
15 public funds; or a library established pursuant to N.J.S.15A:1-1 et
16 seq. and receiving public funds pursuant to R.S.40:54-35.

17 (cf: P.L.1999, c.227, s.1)

18

19 14. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to
20 read as follows:

21 11. It shall be an unlawful employment practice, or, as the case
22 may be, an unlawful discrimination:

23 a. For an employer, because of the race, creed, color, national
24 origin, ancestry, age, marital status, civil union status, domestic
25 partnership status, affectional or sexual orientation, genetic
26 information, pregnancy or breastfeeding, sex, gender identity or
27 expression, disability or atypical hereditary cellular or blood trait of
28 any individual, or because of the liability for service in the Armed
29 Forces of the United States or the nationality of any individual, or
30 because of the refusal to submit to a genetic test or make available
31 the results of a genetic test to an employer, or because of the refusal
32 of a school library media specialist or teaching staff member to
33 remove library material from a school library except to the extent
34 permitted pursuant to sections 4 and 5 of P.L. _____, c. _____ (C. _____ and
35 C. _____) (pending before the Legislature as this bill), or because
36 of the refusal of any staff member of a public library, including a
37 librarian, to remove library material from a public library except to
38 the extent permitted pursuant to sections 9 and 10 of P.L. _____, c.
39 (C. _____ and C. _____) (pending before the Legislature as this bill), to
40 refuse to hire or employ or to bar or to discharge or require to retire,
41 unless justified by lawful considerations other than age, from
42 employment such individual or to discriminate against such
43 individual in compensation or in terms, conditions or privileges of
44 employment; provided, however, it shall not be an unlawful
45 employment practice to refuse to accept for employment an
46 applicant who has received a notice of induction or orders to report
47 for active duty in the armed forces; provided further that nothing
48 herein contained shall be construed to bar an employer from

1 refusing to accept for employment any person on the basis of sex in
2 those certain circumstances where sex is a bona fide occupational
3 qualification, reasonably necessary to the normal operation of the
4 particular business or enterprise; provided further that it shall not be
5 an unlawful employment practice for a club exclusively social or
6 fraternal to use club membership as a uniform qualification for
7 employment, or for a religious association or organization to utilize
8 religious affiliation as a uniform qualification in the employment of
9 clergy, religious teachers or other employees engaged in the
10 religious activities of the association or organization, or in
11 following the tenets of its religion in establishing and utilizing
12 criteria for employment of an employee; provided further, that it
13 shall not be an unlawful employment practice to require the
14 retirement of any employee who, for the two-year period
15 immediately before retirement, is employed in a bona fide executive
16 or a high policy-making position, if that employee is entitled to an
17 immediate non-forfeitable annual retirement benefit from a pension,
18 profit sharing, savings or deferred retirement plan, or any
19 combination of those plans, of the employer of that employee which
20 equals in the aggregate at least \$27,000.00; and provided further
21 that an employer may restrict employment to citizens of the United
22 States where such restriction is required by federal law or is
23 otherwise necessary to protect the national interest.

24 The provisions of subsections a. and b. of section 57 of
25 P.L.2003, c.246 (C.34:11A-20), and the provisions of section 58 of
26 P.L.2003, c.246 (C.26:8A-11), shall not be deemed to be an
27 unlawful discrimination under P.L.1945, c.169 (C.10:5-1 et seq.).

28 For the purposes of this subsection, a "bona fide executive" is a
29 top level employee who exercises substantial executive authority
30 over a significant number of employees and a large volume of
31 business. A "high policy-making position" is a position in which a
32 person plays a significant role in developing policy and in
33 recommending the implementation thereof.

34 For the purposes of this subsection, an unlawful employment
35 practice occurs, with respect to discrimination in compensation or
36 in the financial terms or conditions of employment, each occasion
37 that an individual is affected by application of a discriminatory
38 compensation decision or other practice, including, but not limited
39 to, each occasion that wages, benefits, or other compensation are
40 paid, resulting in whole or in part from the decision or other
41 practice.

42 In addition to any other relief authorized by the "Law Against
43 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) for
44 discrimination in compensation or in the financial terms or
45 conditions of employment, liability shall accrue and an aggrieved
46 person may obtain relief for back pay for the entire period of time,
47 except not more than six years, in which the violation with regard to
48 discrimination in compensation or in the financial terms or

1 conditions of employment has been continuous, if the violation
2 continues to occur within the statute of limitations.

3 Nothing in this subsection shall prohibit the application of the
4 doctrine of "continuing violation" or the "discovery rule" to any
5 appropriate claim as those doctrines currently exist in New Jersey
6 common law. It shall be an unlawful employment practice to
7 require employees or prospective employees to consent to a
8 shortened statute of limitations or to waive any of the protections
9 provided by the "Law Against Discrimination," P.L.1945, c.169
10 (C.10:5-1 et seq.).

11 b. For a labor organization, because of the race, creed, color,
12 national origin, ancestry, age, marital status, civil union status,
13 domestic partnership status, affectional or sexual orientation,
14 gender identity or expression, disability, pregnancy or
15 breastfeeding, or sex of any individual, or because of the liability
16 for service in the Armed Forces of the United States or nationality
17 of any individual, to exclude or to expel from its membership such
18 individual or to discriminate in any way against any of its members,
19 against any applicant for, or individual included in, any apprentice
20 or other training program or against any employer or any individual
21 employed by an employer; provided, however, that nothing herein
22 contained shall be construed to bar a labor organization from
23 excluding from its apprentice or other training programs any person
24 on the basis of sex in those certain circumstances where sex is a
25 bona fide occupational qualification reasonably necessary to the
26 normal operation of the particular apprentice or other training
27 program.

28 c. For any employer or employment agency to print or circulate
29 or cause to be printed or circulated any statement, advertisement or
30 publication, or to use any form of application for employment, or to
31 make an inquiry in connection with prospective employment, which
32 expresses, directly or indirectly, any limitation, specification or
33 discrimination as to race, creed, color, national origin, ancestry,
34 age, marital status, civil union status, domestic partnership status,
35 affectional or sexual orientation, gender identity or expression,
36 disability, nationality, pregnancy or breastfeeding, or sex or liability
37 of any applicant for employment for service in the Armed Forces of
38 the United States, or any intent to make any such limitation,
39 specification or discrimination, unless based upon a bona fide
40 occupational qualification.

41 d. For any person to take reprisals against any person because
42 that person has opposed any practices or acts forbidden under this
43 act or because that person has sought legal advice regarding rights
44 under this act, shared relevant information with legal counsel,
45 shared information with a governmental entity, or filed a complaint,
46 testified or assisted in any proceeding under this act or to coerce,
47 intimidate, threaten or interfere with any person in the exercise or
48 enjoyment of, or on account of that person having aided or

1 encouraged any other person in the exercise or enjoyment of, any
2 right granted or protected by this act.

3 e. For any person, whether an employer or an employee or not,
4 to aid, abet, incite, compel or coerce the doing of any of the acts
5 forbidden under this act, or to attempt to do so.

6 f. (1) For any owner, lessee, proprietor, manager,
7 superintendent, agent, or employee of any place of public
8 accommodation directly or indirectly to refuse, withhold from or
9 deny to any person any of the accommodations, advantages,
10 facilities or privileges thereof, or to discriminate against any person
11 in the furnishing thereof, or directly or indirectly to publish,
12 circulate, issue, display, post or mail any written or printed
13 communication, notice, or advertisement to the effect that any of
14 the accommodations, advantages, facilities, or privileges of any
15 such place will be refused, withheld from, or denied to any person
16 on account of the race, creed, color, national origin, ancestry,
17 marital status, civil union status, domestic partnership status,
18 pregnancy or breastfeeding, sex, gender identity or expression,
19 affectional or sexual orientation, disability, liability for service in
20 the Armed Forces of the United States or nationality of such person,
21 or that the patronage or custom thereof of any person of any
22 particular race, creed, color, national origin, ancestry, marital status,
23 civil union status, domestic partnership status, pregnancy or
24 breastfeeding status, sex, gender identity or expression, affectional
25 or sexual orientation, disability, liability for service in the Armed
26 Forces of the United States or nationality is unwelcome,
27 objectionable or not acceptable, desired or solicited, and the
28 production of any such written or printed communication, notice or
29 advertisement, purporting to relate to any such place and to be made
30 by any owner, lessee, proprietor, superintendent or manager thereof,
31 shall be presumptive evidence in any action that the same was
32 authorized by such person; provided, however, that nothing
33 contained herein shall be construed to bar any place of public
34 accommodation which is in its nature reasonably restricted
35 exclusively to individuals of one sex, and which shall include but
36 not be limited to any summer camp, day camp, or resort camp,
37 bathhouse, dressing room, swimming pool, gymnasium, comfort
38 station, dispensary, clinic or hospital, or school or educational
39 institution which is restricted exclusively to individuals of one sex,
40 provided individuals shall be admitted based on their gender
41 identity or expression, from refusing, withholding from or denying
42 to any individual of the opposite sex any of the accommodations,
43 advantages, facilities or privileges thereof on the basis of sex;
44 provided further, that the foregoing limitation shall not apply to any
45 restaurant as defined in R.S.33:1-1 or place where alcoholic
46 beverages are served.

47 (2) Notwithstanding the definition of "a place of public
48 accommodation" as set forth in subsection 1. of section 5 of

1 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,
2 manager, superintendent, agent, or employee of any private club or
3 association to directly or indirectly refuse, withhold from or deny to
4 any individual who has been accepted as a club member and has
5 contracted for or is otherwise entitled to full club membership any
6 of the accommodations, advantages, facilities or privileges thereof,
7 or to discriminate against any member in the furnishing thereof on
8 account of the race, creed, color, national origin, ancestry, marital
9 status, civil union status, domestic partnership status, pregnancy or
10 breastfeeding, sex, gender identity, or expression, affectional or
11 sexual orientation, disability, liability for service in the Armed
12 Forces of the United States or nationality of such person.

13 In addition to the penalties otherwise provided for a violation of
14 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2)
15 of subsection f. of this section is the holder of an alcoholic beverage
16 license issued under the provisions of R.S.33:1-12 for that private
17 club or association, the matter shall be referred to the Director of
18 the Division of Alcoholic Beverage Control who shall impose an
19 appropriate penalty in accordance with the procedures set forth in
20 R.S.33:1-31.

21 g. For any person, including but not limited to, any owner,
22 lessee, sublessee, assignee or managing agent of, or other person
23 having the right of ownership or possession of or the right to sell,
24 rent, lease, assign, or sublease any real property or part or portion
25 thereof, or any agent or employee of any of these:

26 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
27 to deny to or withhold from any person or group of persons any real
28 property or part or portion thereof because of race, creed, color,
29 national origin, ancestry, marital status, civil union status, domestic
30 partnership status, pregnancy or breastfeeding, sex, gender identity
31 or expression, affectional or sexual orientation, familial status,
32 disability, liability for service in the Armed Forces of the United
33 States, nationality, or source of lawful income used for rental or
34 mortgage payments;

35 (2) To discriminate against any person or group of persons
36 because of race, creed, color, national origin, ancestry, marital
37 status, civil union status, domestic partnership status, pregnancy or
38 breastfeeding, sex, gender identity or expression, affectional or
39 sexual orientation, familial status, disability, liability for service in
40 the Armed Forces of the United States, nationality or source of
41 lawful income used for rental or mortgage payments in the terms,
42 conditions or privileges of the sale, rental or lease of any real
43 property or part or portion thereof or in the furnishing of facilities
44 or services in connection therewith;

45 (3) To print, publish, circulate, issue, display, post or mail, or
46 cause to be printed, published, circulated, issued, displayed, posted
47 or mailed any statement, advertisement, publication or sign, or to
48 use any form of application for the purchase, rental, lease,

1 assignment or sublease of any real property or part or portion
2 thereof, or to make any record or inquiry in connection with the
3 prospective purchase, rental, lease, assignment, or sublease of any
4 real property, or part or portion thereof which expresses, directly or
5 indirectly, any limitation, specification or discrimination as to race,
6 creed, color, national origin, ancestry, marital status, civil union
7 status, domestic partnership status, pregnancy or breastfeeding, sex,
8 gender identity, or expression, affectional or sexual orientation,
9 familial status, disability, liability for service in the Armed Forces
10 of the United States, nationality, or source of lawful income used
11 for rental or mortgage payments, or any intent to make any such
12 limitation, specification or discrimination, and the production of
13 any such statement, advertisement, publicity, sign, form of
14 application, record, or inquiry purporting to be made by any such
15 person shall be presumptive evidence in any action that the same
16 was authorized by such person; provided, however, that nothing
17 contained in this subsection shall be construed to bar any person
18 from refusing to sell, rent, lease, assign or sublease or from
19 advertising or recording a qualification as to sex for any room,
20 apartment, flat in a dwelling or residential facility which is planned
21 exclusively for and occupied by individuals of one sex to any
22 individual of the exclusively opposite sex on the basis of sex
23 provided individuals shall be qualified based on their gender
24 identity or expression;

25 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
26 to deny to or withhold from any person or group of persons any real
27 property or part or portion thereof because of the source of any
28 lawful income received by the person or the source of any lawful
29 rent payment to be paid for the real property; or

30 (5) To refuse to rent or lease any real property to another person
31 because that person's family includes children under 18 years of
32 age, or to make an agreement, rental or lease of any real property
33 which provides that the agreement, rental or lease shall be rendered
34 null and void upon the birth of a child. This paragraph shall not
35 apply to housing for older persons as defined in subsection mm. of
36 section 5 of P.L.1945, c.169 (C.10:5-5).

37 h. For any person, including but not limited to, any real estate
38 broker, real estate salesperson, or employee or agent thereof:

39 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
40 sale, rental, lease, assignment, or sublease any real property or part
41 or portion thereof to any person or group of persons or to refuse to
42 negotiate for the sale, rental, lease, assignment, or sublease of any
43 real property or part or portion thereof to any person or group of
44 persons because of race, creed, color, national origin, ancestry,
45 marital status, civil union status, domestic partnership status,
46 familial status, pregnancy or breastfeeding, sex, gender identity or
47 expression, affectional or sexual orientation, liability for service in
48 the Armed Forces of the United States, disability, nationality, or

1 source of lawful income used for rental or mortgage payments, or to
2 represent that any real property or portion thereof is not available
3 for inspection, sale, rental, lease, assignment, or sublease when in
4 fact it is so available, or otherwise to deny or withhold any real
5 property or any part or portion of facilities thereof to or from any
6 person or group of persons because of race, creed, color, national
7 origin, ancestry, marital status, civil union status, domestic
8 partnership status, familial status, pregnancy or breastfeeding, sex,
9 gender identity or expression, affectional or sexual orientation,
10 disability, liability for service in the Armed Forces of the United
11 States, or nationality;

12 (2) To discriminate against any person because of race, creed,
13 color, national origin, ancestry, marital status, civil union status,
14 domestic partnership status, familial status, pregnancy or
15 breastfeeding, sex, gender identity or expression, affectional or
16 sexual orientation, disability, liability for service in the Armed
17 Forces of the United States, nationality, or source of lawful income
18 used for rental or mortgage payments in the terms, conditions or
19 privileges of the sale, rental, lease, assignment or sublease of any
20 real property or part or portion thereof or in the furnishing of
21 facilities or services in connection therewith;

22 (3) To print, publish, circulate, issue, display, post, or mail, or
23 cause to be printed, published, circulated, issued, displayed, posted
24 or mailed any statement, advertisement, publication or sign, or to
25 use any form of application for the purchase, rental, lease,
26 assignment, or sublease of any real property or part or portion
27 thereof or to make any record or inquiry in connection with the
28 prospective purchase, rental, lease, assignment, or sublease of any
29 real property or part or portion thereof which expresses, directly or
30 indirectly, any limitation, specification or discrimination as to race,
31 creed, color, national origin, ancestry, marital status, civil union
32 status, domestic partnership status, familial status, pregnancy or
33 breastfeeding, sex, gender identity or expression, affectional or
34 sexual orientation, disability, liability for service in the Armed
35 Forces of the United States, nationality, or source of lawful income
36 used for rental or mortgage payments or any intent to make any
37 such limitation, specification or discrimination, and the production
38 of any such statement, advertisement, publicity, sign, form of
39 application, record, or inquiry purporting to be made by any such
40 person shall be presumptive evidence in any action that the same
41 was authorized by such person; provided, however, that nothing
42 contained in this subsection h., shall be construed to bar any person
43 from refusing to sell, rent, lease, assign or sublease or from
44 advertising or recording a qualification as to sex for any room,
45 apartment, flat in a dwelling or residential facility which is planned
46 exclusively for and occupied exclusively by individuals of one sex
47 to any individual of the opposite sex on the basis of sex, provided

1 individuals shall be qualified based on their gender identity or
2 expression;

3 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
4 to deny to or withhold from any person or group of persons any real
5 property or part or portion thereof because of the source of any
6 lawful income received by the person or the source of any lawful
7 rent payment to be paid for the real property; or

8 (5) To refuse to rent or lease any real property to another person
9 because that person's family includes children under 18 years of
10 age, or to make an agreement, rental or lease of any real property
11 which provides that the agreement, rental or lease shall be rendered
12 null and void upon the birth of a child. This paragraph shall not
13 apply to housing for older persons as defined in subsection mm. of
14 section 5 of P.L.1945, c.169 (C.10:5-5).

15 i. For any person, bank, banking organization, mortgage
16 company, insurance company or other financial institution, lender
17 or credit institution involved in the making or purchasing of any
18 loan or extension of credit, for whatever purpose, whether secured
19 by residential real estate or not, including but not limited to
20 financial assistance for the purchase, acquisition, construction,
21 rehabilitation, repair or maintenance of any real property or part or
22 portion thereof or any agent or employee thereof:

23 (1) To discriminate against any person or group of persons
24 because of race, creed, color, national origin, ancestry, marital
25 status, civil union status, domestic partnership status, pregnancy or
26 breastfeeding, sex, gender identity or expression, affectional or
27 sexual orientation, disability, liability for service in the Armed
28 Forces of the United States, familial status or nationality, in the
29 granting, withholding, extending, modifying, renewing, or
30 purchasing, or in the fixing of the rates, terms, conditions or
31 provisions of any such loan, extension of credit or financial
32 assistance or purchase thereof or in the extension of services in
33 connection therewith;

34 (2) To use any form of application for such loan, extension of
35 credit or financial assistance or to make record or inquiry in
36 connection with applications for any such loan, extension of credit
37 or financial assistance which expresses, directly or indirectly, any
38 limitation, specification or discrimination as to race, creed, color,
39 national origin, ancestry, marital status, civil union status, domestic
40 partnership status, pregnancy or breastfeeding, sex, gender identity
41 or expression, affectional or sexual orientation, disability, liability
42 for service in the Armed Forces of the United States, familial status
43 or nationality or any intent to make any such limitation,
44 specification or discrimination; unless otherwise required by law or
45 regulation to retain or use such information;

46 (3) (Deleted by amendment, P.L.2003, c.180).

47 (4) To discriminate against any person or group of persons
48 because of the source of any lawful income received by the person

1 or the source of any lawful rent payment to be paid for the real
2 property; or

3 (5) To discriminate against any person or group of persons
4 because that person's family includes children under 18 years of
5 age, or to make an agreement or mortgage which provides that the
6 agreement or mortgage shall be rendered null and void upon the
7 birth of a child. This paragraph shall not apply to housing for older
8 persons as defined in subsection mm. of section 5 of P.L.1945,
9 c.169 (C.10:5-5).

10 j. For any person whose activities are included within the
11 scope of this act to refuse to post or display such notices concerning
12 the rights or responsibilities of persons affected by this act as the
13 Attorney General may by regulation require.

14 k. For any real estate broker, real estate salesperson or
15 employee or agent thereof or any other individual, corporation,
16 partnership, or organization, for the purpose of inducing a
17 transaction for the sale or rental of real property from which
18 transaction such person or any of its members may benefit
19 financially, to represent that a change has occurred or will or may
20 occur in the composition with respect to race, creed, color, national
21 origin, ancestry, marital status, civil union status, domestic
22 partnership status, familial status, pregnancy or breastfeeding, sex,
23 gender identity or expression, affectional or sexual orientation,
24 disability, liability for service in the Armed Forces of the United
25 States, nationality, or source of lawful income used for rental or
26 mortgage payments of the owners or occupants in the block,
27 neighborhood or area in which the real property is located, and to
28 represent, directly or indirectly, that this change will or may result
29 in undesirable consequences in the block, neighborhood or area in
30 which the real property is located, including, but not limited to the
31 lowering of property values, an increase in criminal or anti-social
32 behavior, or a decline in the quality of schools or other facilities.

33 l. For any person to refuse to buy from, sell to, lease from or
34 to, license, contract with, or trade with, provide goods, services or
35 information to, or otherwise do business with any other person on
36 the basis of the race, creed, color, national origin, ancestry, age,
37 pregnancy or breastfeeding, sex, gender identity or expression,
38 affectional or sexual orientation, marital status, civil union status,
39 domestic partnership status, liability for service in the Armed
40 Forces of the United States, disability, nationality, or source of
41 lawful income used for rental or mortgage payments of such other
42 person or of such other person's family members, partners,
43 members, stockholders, directors, officers, managers,
44 superintendents, agents, employees, business associates, suppliers,
45 or customers. This subsection shall not prohibit refusals or other
46 actions (1) pertaining to employee-employer collective bargaining,
47 labor disputes, or unfair labor practices, or (2) made or taken in

1 connection with a protest of unlawful discrimination or unlawful
2 employment practices.

3 m. For any person to:

4 (1) Grant or accept any letter of credit or other document which
5 evidences the transfer of funds or credit, or enter into any contract
6 for the exchange of goods or services, where the letter of credit,
7 contract, or other document contains any provisions requiring any
8 person to discriminate against or to certify that he, she or it has not
9 dealt with any other person on the basis of the race, creed, color,
10 national origin, ancestry, age, pregnancy or breastfeeding, sex,
11 gender identity or expression, affectional or sexual orientation,
12 marital status, civil union status, domestic partnership status,
13 disability, liability for service in the Armed Forces of the United
14 States, or nationality of such other person or of such other person's
15 family members, partners, members, stockholders, directors,
16 officers, managers, superintendents, agents, employees, business
17 associates, suppliers, or customers.

18 (2) Refuse to grant or accept any letter of credit or other
19 document which evidences the transfer of funds or credit, or refuse
20 to enter into any contract for the exchange of goods or services, on
21 the ground that it does not contain such a discriminatory provision
22 or certification.

23 The provisions of this subsection shall not apply to any letter of
24 credit, contract, or other document which contains any provision
25 pertaining to employee-employer collective bargaining, a labor
26 dispute or an unfair labor practice, or made in connection with the
27 protest of unlawful discrimination or an unlawful employment
28 practice, if the other provisions of such letter of credit, contract, or
29 other document do not otherwise violate the provisions of this
30 subsection.

31 n. For any person to aid, abet, incite, compel, coerce, or induce
32 the doing of any act forbidden by subsections l. and m. of section
33 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to
34 do so. Such prohibited conduct shall include, but not be limited to:

35 (1) Buying from, selling to, leasing from or to, licensing,
36 contracting with, trading with, providing goods, services, or
37 information to, or otherwise doing business with any person
38 because that person does, or agrees or attempts to do, any such act
39 or any act prohibited by this subsection; or

40 (2) Boycotting, commercially blacklisting or refusing to buy
41 from, sell to, lease from or to, license, contract with, provide goods,
42 services or information to, or otherwise do business with any person
43 because that person has not done or refuses to do any such act or
44 any act prohibited by this subsection; provided that this subsection
45 shall not prohibit refusals or other actions either pertaining to
46 employee-employer collective bargaining, labor disputes, or unfair
47 labor practices, or made or taken in connection with a protest of
48 unlawful discrimination or unlawful employment practices.

1 o. For any multiple listing service, real estate brokers'
2 organization or other service, organization or facility related to the
3 business of selling or renting dwellings to deny any person access
4 to or membership or participation in such organization, or to
5 discriminate against such person in the terms or conditions of such
6 access, membership, or participation, on account of race, creed,
7 color, national origin, ancestry, age, marital status, civil union
8 status, domestic partnership status, familial status, pregnancy or
9 breastfeeding, sex, gender identity or expression, affectional or
10 sexual orientation, disability, liability for service in the Armed
11 Forces of the United States or nationality.

12 p. Nothing in the provisions of this section shall affect the
13 ability of an employer to require employees to adhere to reasonable
14 workplace appearance, grooming and dress standards not precluded
15 by other provisions of State or federal law, except that an employer
16 shall allow an employee to appear, groom and dress consistent with
17 the employee's gender identity or expression.

18 q. (1) For any employer to impose upon a person as a condition
19 of obtaining or retaining employment, including opportunities for
20 promotion, advancement or transfers, any terms or conditions that
21 would require a person to violate or forego a sincerely held
22 religious practice or religious observance, including but not limited
23 to the observance of any particular day or days or any portion
24 thereof as a Sabbath or other holy day in accordance with the
25 requirements of the religion or religious belief, unless, after
26 engaging in a bona fide effort, the employer demonstrates that it is
27 unable to reasonably accommodate the employee's religious
28 observance or practice without undue hardship on the conduct of the
29 employer's business. Notwithstanding any other provision of law to
30 the contrary, an employee shall not be entitled to premium wages or
31 premium benefits for work performed during hours to which those
32 premium wages or premium benefits would ordinarily be
33 applicable, if the employee is working during those hours only as an
34 accommodation to his religious requirements. Nothing in this
35 subsection q. shall be construed as reducing:

36 (a) The number of the hours worked by the employee which are
37 counted towards the accruing of seniority, pension or other benefits;
38 or

39 (b) Any premium wages or benefits provided to an employee
40 pursuant to a collective bargaining agreement.

41 (2) For an employer to refuse to permit an employee to utilize
42 leave, as provided for in this subsection q., which is solely used to
43 accommodate the employee's sincerely held religious observance or
44 practice. Except where it would cause an employer to incur an
45 undue hardship, no person shall be required to remain at his place
46 of employment during any day or days or portion thereof that, as a
47 requirement of his religion, he observes as his Sabbath or other holy
48 day, including a reasonable time prior and subsequent thereto for

1 travel between his place of employment and his home; provided that
2 any such absence from work shall, wherever practicable in the
3 reasonable judgment of the employer, be made up by an equivalent
4 amount of time and work at some other mutually convenient time,
5 or shall be charged against any leave with pay ordinarily granted,
6 other than sick leave, and any such absence not so made up or
7 charged, may be treated by the employer of that person as leave
8 taken without pay.

9 (3) (a) For purposes of this subsection q., "undue hardship"
10 means an accommodation requiring unreasonable expense or
11 difficulty, unreasonable interference with the safe or efficient
12 operation of the workplace or a violation of a bona fide seniority
13 system or a violation of any provision of a bona fide collective
14 bargaining agreement.

15 (b) In determining whether the accommodation constitutes an
16 undue hardship, the factors considered shall include:

17 (i) The identifiable cost of the accommodation, including the
18 costs of loss of productivity and of retaining or hiring employees or
19 transferring employees from one facility to another, in relation to
20 the size and operating cost of the employer.

21 (ii) The number of individuals who will need the particular
22 accommodation for a sincerely held religious observance or
23 practice.

24 (iii) For an employer with multiple facilities, the degree to
25 which the geographic separateness or administrative or fiscal
26 relationship of the facilities will make the accommodation more
27 difficult or expensive.

28 (c) An accommodation shall be considered to constitute an
29 undue hardship if it will result in the inability of an employee to
30 perform the essential functions of the position in which he or she is
31 employed.

32 (d) (i) The provisions of this subsection q. shall be applicable
33 only to reasonable accommodations of religious observances and
34 shall not supersede any definition of undue hardship or standards
35 for reasonable accommodation of the disabilities of employees.

36 (ii) This subsection q. shall not apply where the uniform
37 application of terms and conditions of attendance to employees is
38 essential to prevent undue hardship to the employer. The burden of
39 proof regarding the applicability of this subparagraph (d) shall be
40 upon the employer.

41 r. For any employer to take reprisals against any employee for
42 requesting from, discussing with, or disclosing to, any other
43 employee or former employee of the employer, a lawyer from
44 whom the employee seeks legal advice, or any government agency
45 information regarding the job title, occupational category, and rate
46 of compensation, including benefits, of the employee or any other
47 employee or former employee of the employer, or the gender, race,
48 ethnicity, military status, or national origin of the employee or any

1 other employee or former employee of the employer, regardless of
2 whether the request was responded to, or to require, as a condition
3 of employment, any employee or prospective employee to sign a
4 waiver, or to otherwise require an employee or prospective
5 employee to agree, not to make those requests or disclosures.
6 Nothing in this subsection shall be construed to require an
7 employee to disclose such information about the employee herself
8 to any other employee or former employee of the employer or to
9 any authorized representative of the other employee or former
10 employee.

11 s. For an employer to treat, for employment-related purposes, a
12 woman employee that the employer knows, or should know, is
13 affected by pregnancy or breastfeeding in a manner less favorable
14 than the treatment of other persons not affected by pregnancy or
15 breastfeeding but similar in their ability or inability to work. In
16 addition, an employer of an employee who is a woman affected by
17 pregnancy shall make available to the employee reasonable
18 accommodation in the workplace, such as bathroom breaks, breaks
19 for increased water intake, periodic rest, assistance with manual
20 labor, job restructuring or modified work schedules, and temporary
21 transfers to less strenuous or hazardous work, for needs related to
22 the pregnancy when the employee, based on the advice of her
23 physician, requests the accommodation, and, in the case of a
24 employee breast feeding her infant child, the accommodation shall
25 include reasonable break time each day to the employee and a
26 suitable room or other location with privacy, other than a toilet stall,
27 in close proximity to the work area for the employee to express
28 breast milk for the child, unless the employer can demonstrate that
29 providing the accommodation would be an undue hardship on the
30 business operations of the employer. The employer shall not in any
31 way penalize the employee in terms, conditions or privileges of
32 employment for requesting or using the accommodation. Workplace
33 accommodation provided pursuant to this subsection and paid or
34 unpaid leave provided to an employee affected by pregnancy or
35 breastfeeding shall not be provided in a manner less favorable than
36 accommodations or leave provided to other employees not affected
37 by pregnancy or breastfeeding but similar in their ability or inability
38 to work. This subsection shall not be construed as otherwise
39 increasing or decreasing any employee's rights under law to paid or
40 unpaid leave in connection with pregnancy or breastfeeding.

41 For the purposes of this section "pregnancy or breastfeeding"
42 means pregnancy, childbirth, and breast feeding or expressing milk
43 for breastfeeding, or medical conditions related to pregnancy,
44 childbirth, or breastfeeding, including recovery from childbirth.

45 For the purposes of this subsection, in determining whether an
46 accommodation would impose undue hardship on the operation of
47 an employer's business, the factors to be considered include: the
48 overall size of the employer's business with respect to the number

1 of employees, number and type of facilities, and size of budget; the
2 type of the employer's operations, including the composition and
3 structure of the employer's workforce; the nature and cost of the
4 accommodation needed, taking into consideration the availability of
5 tax credits, tax deductions, and outside funding; and the extent to
6 which the accommodation would involve waiver of an essential
7 requirement of a job as opposed to a tangential or non-business
8 necessity requirement.

9 t. For an employer to pay any of its employees who is a
10 member of a protected class at a rate of compensation, including
11 benefits, which is less than the rate paid by the employer to
12 employees who are not members of the protected class for
13 substantially similar work, when viewed as a composite of skill,
14 effort and responsibility. An employer who is paying a rate of
15 compensation in violation of this subsection shall not reduce the
16 rate of compensation of any employee in order to comply with this
17 subsection. An employer may pay a different rate of compensation
18 only if the employer demonstrates that the differential is made
19 pursuant to a seniority system, a merit system, or the employer
20 demonstrates:

21 (1) That the differential is based on one or more legitimate, bona
22 fide factors other than the characteristics of members of the
23 protected class, such as training, education or experience, or the
24 quantity or quality of production;

25 (2) That the factor or factors are not based on, and do not
26 perpetuate, a differential in compensation based on sex or any other
27 characteristic of members of a protected class;

28 (3) That each of the factors is applied reasonably;

29 (4) That one or more of the factors account for the entire wage
30 differential; and

31 (5) That the factors are job-related with respect to the position
32 in question and based on a legitimate business necessity. A factor
33 based on business necessity shall not apply if it is demonstrated that
34 there are alternative business practices that would serve the same
35 business purpose without producing the wage differential.

36 Comparisons of wage rates shall be based on wage rates in all of
37 an employer's operations or facilities. For the purposes of this
38 subsection, "member of a protected class" means an employee who
39 has one or more characteristics, including race, creed, color,
40 national origin, nationality, ancestry, age, marital status, civil union
41 status, domestic partnership status, affectional or sexual orientation,
42 genetic information, pregnancy, sex, gender identity or expression,
43 disability or atypical hereditary cellular or blood trait of any
44 individual, **[or]** liability for service in the armed forces, or the
45 refusal of a school library media specialist, teaching staff member,
46 librarian, or any staff member of a public library to remove library
47 material from a school library or a public library, for which
48 subsection a. of this section prohibits an employer from refusing to

1 hire or employ or barring or discharging or requiring to retire from
2 employment or discriminating against the individual in
3 compensation or in terms, conditions or privileges of employment.
4 (cf: P.L.2021, c.248, s.2)

5
6 15. This act shall take effect one year following the date of
7 enactment, but the Commissioner of Education and State Librarian
8 may take such anticipatory action as may be necessary for the
9 implementation of the act.

10
11
12 STATEMENT

13
14 This bill, entitled the "Freedom to Read Act," establishes
15 requirements for library material in public school libraries and
16 public libraries and establishes protections for school library media
17 specialists and librarians against harassment.

18 Under the bill, boards of education and governing boards of
19 public libraries are required to adopt policies on the curation of
20 library material within school libraries and public libraries.
21 "Library material" is defined under the bill to mean any material
22 including, but not limited to, nonfiction and fiction books;
23 magazines; reference books; supplementary titles; multimedia and
24 digital material; software and instructional material and other
25 material not required as part of classroom instruction, belonging to,
26 on loan to, or otherwise in the custody of a school library or public
27 library.

28 To assist boards of education in establishing a policy on the
29 library material within school libraries, the Commissioner of
30 Education is to create a model policy in consultation with the State
31 Librarian and the New Jersey Association of School Librarians.
32 The bill also requires the State Librarian to establish a model
33 policy, in consultation with the New Jersey Library Association, for
34 use and adoption by public libraries.

35 The bill further requires boards of education and governing
36 boards of public libraries to adopt policies creating a procedure
37 regarding requests for removal of library material from a school
38 library or public library. These policies are to establish a
39 mechanism to challenge a library material, create a review
40 committee, and require a written statement of reasons on the final
41 determination of the library material. The State Librarian is to
42 establish a model policy, in consultation with the New Jersey
43 Library Association, for use and adoption by public libraries.

44 The bill also requires boards of education and governing boards
45 of public libraries to include diverse and inclusive material within
46 their respective libraries. Students are to be able to reserve, check
47 out, or access any age- and grade-appropriate library material,
48 including diverse and inclusive materials. Similarly, residents are

1 to be able to reserve, check out, or access any library material,
2 including diverse and inclusive materials.

3 The bill defines “diverse and inclusive material” to mean any
4 material that reflects any protected class as enumerated in the "Law
5 Against Discrimination," (LAD); material produced by an author
6 notwithstanding the author’s membership in a protected class as
7 enumerated in the LAD; and material that contains the author's
8 points of view concerning contemporary problems and issues,
9 whether international, national or local; but excludes content that is
10 inappropriate for grades and age groups served by the school
11 library. The LAD bars discrimination on the basis of a person’s
12 race, creed, color, national origin, ancestry, age, sex, gender
13 identity or expression, affectional or sexual orientation, marital
14 status, liability for service in the Armed Forces, disability, or
15 nationality.

16 Further, this bill provides that a school library media specialist,
17 teaching staff member, librarian, or any other staff member of a
18 public library that engages in activities required under the bill is to
19 be immune from criminal and civil liability. These individuals are
20 also to have a civil cause of action for any relevant tort against any
21 person who harasses the school library media specialist, teaching
22 staff member, librarian, or any other staff member of a public
23 library for complying with the provisions of the bill. “Harassment”
24 or “harasses” is defined in the bill as a singular act that is severe or
25 pervasive, or a series of acts over any period of time directed at a
26 specific person that serves no legitimate purpose and would cause,
27 or has caused, a reasonable person to suffer emotional distress.
28 “Emotional distress” is defined as significant mental suffering or
29 distress.

30 Additionally, the bill creates an affirmative defense for a
31 prosecution for obscenity for school library media specialists,
32 teaching staff members, librarians, or any staff member of a public
33 library that are complying with the provisions of this bill.

34 Finally, this bill expands the scope of the LAD, to incorporate
35 protection against discriminatory acts against a school library media
36 specialist, teaching staff member, librarian, or any staff member of
37 a public library based upon their refusal to remove library material
38 except as permitted under the bill.

39 It is the sponsor’s intent that the Legislature protect the freedom
40 of New Jersey’s residents to read, for school libraries and public
41 libraries to acquire and maintain materials without external
42 limitations, to recognize that school library media specialists and
43 librarians are trained to curate and develop collections, and to
44 protect school library media specialists and librarians from
45 unnecessary and unwarranted harassment and defamation for
46 performance of their duties.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3446

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED JUNE 6, 2024

Sponsored by:

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District 16 (Hunterdon, Mercer, Middlesex and Somerset)
Assemblywoman **SHAVONDA E. SUMTER**
District 35 (Bergen and Passaic)
Assemblyman **HERB CONAWAY, JR.**
District 7 (Burlington)
Senator **ANDREW ZWICKER**
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Assemblyman **Danielsen**, Assemblywomen **Bagolie**, **Murphy**, **Lampitt**,
Speight, Senators **McKnight**, **McKeon**, **B.Smith**, **Mukherji**, **Stack**, **Burgess**,
Bramnick and **Timberlake**

SYNOPSIS

"Freedom to Read Act"; establishes requirements for library material in public school libraries and public libraries; protects school library staff members and librarians.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Education Committee.

(Sponsorship Updated As Of: 10/28/2024)

1 AN ACT concerning public school libraries and public libraries and
2 supplementing Title 18A of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the "Freedom to
8 Read Act."

9

10 2. The Legislature finds and declares that:

11 a. The freedom to read is a human right, constitutionally
12 protected by the First Amendment of the United States Constitution,
13 and individuals have the right to free inquiry and the right to form
14 their own opinions.

15 b. The freedom to read does not require a person to agree with
16 topics or themes within a material, but instead allows a reader to
17 explore and engage with differing perspectives to form and inform
18 their own views.

19 c. Since Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393
20 U.S. 503 (1969), it has been well established that students do not
21 "shed their constitutional rights to freedom of speech or expression
22 at the schoolhouse gate[,]" and, as such, students have a right to
23 access a diverse range of developmentally relevant information,
24 stories, perspectives, and ideas.

25 d. In Bd. of Ed. v. Pico, 457 U.S. 853 (1982), the United
26 States Supreme Court opined that "local school boards may not
27 remove books from school library shelves simply because they
28 dislike the ideas contained in those books and seek by their removal
29 to 'prescribe what shall be orthodox in politics, nationalism,
30 religion, or other matters of opinion.'"

31 e. School libraries and public libraries, as centers for voluntary
32 inquiry, play a unique role in promoting intellectual freedom,
33 providing equitable access to learning resources, and promoting
34 democracy by providing service to all regardless of race, ethnicity,
35 creed, age, ability, gender, or socio-economic status.

36 f. School library staff members and librarians are essential
37 members of the community; as trained professionals, they help
38 young people of all backgrounds find and interpret the information
39 they need to succeed in school and prepare for college, careers, and
40 life.

41 g. School library staff members and librarians receive
42 extensive professional training that prepares them to develop and
43 curate collections designed to meet the broad and varied interests
44 and needs of their communities and students, which is based on a
45 variety of factors, including pedagogical value, student interest, and
46 the appropriateness of the material.

47 h. Despite this, school library staff members and librarians
48 have been targeted and harassed for providing young people access
49 to library material.

1 i. Therefore, it is necessary and proper for the Legislature to
2 protect the freedom of New Jersey's residents to read, for school
3 libraries and public libraries to acquire and maintain materials
4 without external limitations, to recognize that school library staff
5 members and librarians are trained to curate and develop
6 collections, and to ensure school library staff members and
7 librarians are able to perform their duties.

8
9 3. As used in sections 4 through 7 of this act:

10 "Board of education" means a board of education as defined in
11 N.J.S.18A:18A-2, the board of directors of an educational services
12 commission, a board of trustees of a charter school, a board of
13 trustees of a renaissance school project, or any other local education
14 agency.

15 "Censorship" means to block, suppress, or remove library
16 material based on disagreement with a viewpoint, idea, or concept,
17 or solely because an individual finds certain content offensive, but
18 does not include limiting or restricting access to any library
19 material deemed developmentally inappropriate for certain students.

20 "Diverse and inclusive material" means any material that reflects
21 any protected class as enumerated in the "Law Against
22 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.); material
23 produced by an author who is a member of a protected class as
24 enumerated in the "Law Against Discrimination," P.L.1945, c.169
25 (C.10:5-1 et seq.); and material that contains the author's points of
26 view concerning contemporary problems and issues, whether
27 international, national, or local; but excludes content that is
28 inappropriate for grades served by the school library.

29 "Individual with a vested interest" means any teaching staff
30 member employed by the board of education, any parent or
31 guardian of a student enrolled in the school district at the time the
32 removal form required pursuant to section 5 of this act is filed, and
33 any student enrolled in the district at the time the removal form
34 required pursuant to section 5 of this act is filed.

35 "Library material" means any material including, but not limited
36 to, nonfiction and fiction books; magazines; reference books;
37 supplementary titles; multimedia and digital material; software and
38 instructional material and other material not required as part of
39 classroom instruction, belonging to, on loan to, or otherwise in the
40 custody of a school library.

41 "School library staff member" means a school library media
42 specialist, school librarian, any certificated or non-certificated staff
43 member assigned to duties in a school library, or any individual
44 carrying out or assisting with the functions of a school library
45 media specialist or school librarian.

46
47 4. a. A board of education shall adopt a policy on the curation
48 of library material within a school library. The purpose of the

1 curation policy is to: provide standards for the curation of library
2 material; establish criteria for the removal of existing school library
3 material or library material selected for inclusion in the school library;
4 and provide protection against attempts to censor library material.

5 b. When developing the policy, the board shall review the
6 model policy established by the Commissioner of Education
7 pursuant to subsection d. of this section. The board shall have
8 control over the content of the policy, except that the policy shall, at
9 a minimum:

10 (1) recognize that library material should be provided for the
11 interest, information, and enlightenment of all students and should
12 present diverse points of view in the collection as a whole;

13 (2) acknowledge that library material shall not be removed from
14 a school library because of the origin, background, or views of the
15 library material or those contributing to its creation;

16 (3) recognize the importance of school libraries as centers for
17 voluntary inquiry and the dissemination of information and ideas;

18 (4) promote the free expression and free access to ideas by
19 students by prohibiting the censorship of library material;

20 (5) acknowledge that a school library media specialist is
21 professionally trained to curate and develop the school library
22 collection that provides students with access to the widest array of
23 developmentally appropriate library material available to schools;
24 and

25 (6) establish a procedure for a school library staff member to
26 review library material within a school library on an ongoing basis,
27 which shall include, but not be limited to: the library material's
28 relevance; the condition of the library material; the availability of
29 duplicates; the availability of more recent developmentally
30 appropriate material; and the continued demand for the library
31 material.

32 c. In the event a board of education has a policy that complies
33 with the requirements of subsection b. of this section as of the
34 effective date of this act, the board shall not be required to take
35 further action.

36 d. To assist boards of education in developing a policy on the
37 curation of library material within a school library, the
38 commissioner shall develop a model policy. In developing the
39 model policy, the commissioner shall consult with the State
40 Librarian, the New Jersey Association of School Librarians, and the
41 New Jersey School Boards Association. The model policy shall be
42 updated as the commissioner deems necessary.

43 e. A board of education, in consultation with school library
44 staff members, shall have discretion in selecting, purchasing, or
45 acquiring library material for inclusion in the school library.
46 Nothing in this section shall be construed to require a board of
47 education to purchase, or otherwise acquire, library material for a
48 school library.

1 f. Nothing in this section shall be construed to restrict a board
2 of education's authority to select textbooks and school supplies
3 related to the curriculum.
4

5 5. a. A board of education shall adopt a policy establishing a
6 procedure regarding a request for removal of library material within
7 a school library. When developing the policy, the board shall
8 review the model policy established by the Commissioner of
9 Education pursuant to subsection d. of this section.

10 b. The board shall have control over the policy, except that the
11 policy shall, at a minimum:

12 (1) provide for the creation of a request for removal form, based
13 on the model removal form developed by the commissioner
14 pursuant to subsection d. of this section, that may be submitted by
15 an individual with a vested interest to the principal of the school in
16 which the library material is challenged to initiate a review of the
17 material. The form shall require the individual with the vested
18 interest to specify which sections of the library material the
19 individual objects to and an explanation of the reasons for the
20 objection;

21 (2) require the principal or principal's designee to promptly
22 forward the request for removal to the superintendent of the school
23 district. The superintendent or the superintendent's designee shall
24 appoint a review committee, consisting of:

25 (a) the superintendent or the superintendent's designee;

26 (b) the principal of the school in which the library material is
27 challenged or the principal's designee;

28 (c) the school library media specialist or a school library staff
29 member;

30 (d) a representative selected by the board of education;

31 (e) at least one grade-appropriate teacher familiar with the
32 library material, provided the teacher selected is not the individual
33 who submitted the form;

34 (f) a parent or guardian of a student enrolled in the school
35 district, provided the parent or guardian selected is not the
36 individual who submitted the form;

37 (g) if appropriate, and at the discretion of the superintendent, in
38 cases where a student enrolled in the district in grades nine through
39 12 filed the removal form, a student enrolled in the district in grades
40 nine through 12 may volunteer to serve on the review committee, if
41 that student did not file the removal form. The superintendent shall
42 consult with the principal of the school involved in the removal
43 request in making this determination; and

44 (h) any additional members the superintendent deems necessary;

45 (3) require that a challenged library material remain within the
46 school library and available for a student to reserve, check out, or
47 access until there is a final decision reached by the board of
48 education pursuant to paragraph (5) of this subsection;

1 (4) require the review committee to evaluate the request for
2 removal form, review the challenged library material, and report in
3 writing its recommendations on whether to remove the library
4 material to the board of education no later than 60 school days from
5 the date of the next regularly scheduled board of education meeting
6 after receipt of the form. A copy of the committee's report shall
7 also be provided to the individual with a vested interest who filed
8 the form and the principal;

9 (5) require the board of education to review the committee's
10 report and make a final determination on whether the library
11 material is to be removed from the school library, or limited in use.
12 The board shall provide a written statement of reasons for:

13 (a) the removal, limitation, or non-removal of a library material;
14 and

15 (b) any final determination that is contrary to the
16 recommendations of the review committee.

17 The written statement of reasons shall be posted on the board's
18 Internet website in a prominent and easily accessible location
19 within 30 days of the determination.

20 (6) provide that a library material that has been challenged
21 pursuant to paragraphs (1) through (5) of this subsection shall not
22 be subject to a subsequent challenge for at least one year; and

23 (7) permit a school district to consolidate requests for removal of
24 the same challenged library material.

25 c. If a board of education has a policy that complies with the
26 requirements of subsection b. of this section as of the effective date
27 of this act, the board shall not be required to take further action.

28 d. To assist boards of education in developing a policy on the
29 procedure regarding a request for removal of library material within
30 a school library, the commissioner shall develop a model policy and
31 model removal form. In developing the model policy and model
32 removal form, the commissioner shall consult with the State
33 Librarian, the New Jersey Association of School Librarians, and the
34 New Jersey School Boards Association. The model policy and
35 model removal form shall be updated as the commissioner deems
36 necessary.

37 e. A board of education determination issued in accordance
38 with the policy established in subsection b. of this section which
39 denies a request for removal shall not constitute a controversy or
40 dispute pursuant to N.J.S.18A:6-9.

41 f. An individual with a vested interest may file a petition of
42 appeal of the board's final determination to the commissioner
43 through the Office of Controversies and Disputes in accordance
44 with N.J.S.18A:6-9 and the procedures set forth in State Board of
45 Education regulations.

46 g. Nothing in this section shall be construed as creating a
47 separate legal cause of action regarding any determination issued

1 pursuant to the policy established pursuant to subsection a. of this
2 section.

3

4 6. a. A board of education shall not remove library material
5 from a school library in the district because of the origin,
6 background, or views of the library material or those contributing to
7 its creation, and shall not engage in censorship of library material.

8 b. A board of education shall allow a student to reserve or check
9 out any developmentally appropriate library material, including
10 diverse and inclusive material.

11

12 7. A school library staff member who engages in activities as
13 required by sections 4 through 6 of this act shall be immune from
14 civil and criminal liability arising from good faith actions
15 performed pursuant to the provisions of those sections.

16

17 8. As used in sections 9 through 12 of this act:

18 “Censorship” means to block, suppress, or remove library
19 material based on disagreement with a viewpoint, idea, or concept,
20 or solely because an individual finds certain content offensive, but
21 does not include limiting or restricting access to any library
22 material deemed developmentally inappropriate for certain age
23 groups.

24 “Diverse and inclusive material” means material that reflects any
25 protected class as enumerated in the "Law Against Discrimination,"
26 P.L.1945, c.169 (C.10:5-1 et seq.); material produced by an author
27 who is a member of a protected class as enumerated in the "Law
28 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.); and
29 material that contains the author's points of view concerning
30 contemporary problems and issues, whether international, national
31 or local.

32 “Governing body” means a board of trustees, director or other
33 chief administrative officer, a county library commission, or board
34 of county commissioners of a public library.

35 “Individual with a vested interest” means any resident who is
36 served by the public library or resides in a county or municipality
37 where the library is situated.

38 “Library material” means any material including, but not limited
39 to, nonfiction and fiction books; magazines; reference books;
40 supplementary titles; multimedia and digital material; software and
41 instructional material, belonging to, on loan to, or otherwise in the
42 custody of a public library.

43 “Public library” means a library that serves, free of charge, all
44 residents of an area as established pursuant to chapter 33 or chapter
45 54 of Title 40 of the Revised Statutes, and receives financial
46 support, in whole or in part, from public funds; or a library
47 established pursuant to N.J.S.15A:1-1 et seq. and receiving public
48 funds pursuant to R.S.40:54-35.

1 9. a. In addition to the duties prescribed in section 18 of
2 P.L.1969, c.158 (C.18A:73-33), the State Librarian, in consultation
3 with the New Jersey Library Association, shall establish a model
4 policy on the curation of library material within a public library.
5 The purpose of the curation policy is to: provide standards for the
6 curation of library material; establish criteria for the removal of
7 existing library material or library material selected for inclusion in the
8 public library; and provide protection against attempts to censor
9 library material.

10 b. The model policy shall, at a minimum:

11 (1) recognize that public libraries serve as centers for voluntary
12 inquiry and the dissemination of information and ideas;

13 (2) promote the free expression and free access to ideas by
14 residents by prohibiting the censorship of library material;

15 (3) acknowledge that library material shall not be removed from
16 a public library because of the origin, background, or views of the
17 library material or those contributing to its creation;

18 (4) recognize that library material should be provided for the
19 interest, information, and enlightenment of all people, and should
20 present diverse points of view in the collection as a whole;

21 (5) acknowledge that a librarian is professionally trained to
22 curate and develop collections that provide residents with access to
23 the widest array of library material available to the public library;
24 and

25 (6) establish a procedure for a librarian to review library material
26 within a public library on an ongoing basis, which shall include, but
27 not be limited to: the library material's relevance; the condition of
28 the library material; the availability of duplicates; the availability of
29 more recent material; and the continued demand for the library
30 material.

31 c. The model policy shall be updated as the State Librarian and
32 New Jersey Library Association deem necessary.

33 d. A governing body of a public library shall adopt the model
34 policy established pursuant to this section. If a public library has a
35 policy that complies with the requirements of subsection b. of this
36 section as of the effective date of this act, the library shall not be
37 required to take further action.

38 e. The governing body of a public library, in consultation with
39 staff members of a public library, including a librarian employed by
40 a public library, shall have discretion in selecting, purchasing, or
41 acquiring library material for inclusion in the public library.
42 Nothing in this section shall be construed to require a governing body
43 of a public library to purchase, or otherwise acquire, library material
44 for a public library.

45

46 10. a. In addition to the duties prescribed in section 18 of
47 P.L.1969, c.158 (C.18A:73-33), the State Librarian, in consultation
48 with the New Jersey Library Association, shall establish a model

- 1 policy creating a procedure regarding a request for removal of
2 library material within a public library.
- 3 b. The model policy shall, at a minimum, require:
- 4 (1) the creation of a request for removal form, based on the
5 model removal form established by the State Librarian, that may be
6 submitted by an individual with a vested interest to the governing
7 body of the public library in which the library material is
8 challenged to initiate a review of the material. The form shall
9 require the individual with the vested interest to specify which
10 sections of the library material the individual objects to and an
11 explanation of the reasons for the objection;
- 12 (2) the governing body appoint a review committee, consisting
13 of:
- 14 (a) at least one member of the governing body;
- 15 (b) a librarian employed by the public library;
- 16 (c) a staff member, who is not a librarian, of the public library
17 that is familiar with the library material;
- 18 (d) a representative selected by the governing body;
- 19 (e) a resident serviced by the public library, provided the
20 resident selected is not the individual who submitted the form; and
- 21 (f) any additional members the governing body deems
22 necessary;
- 23 (3) a challenged library material remain within the public library
24 and available for a resident to reserve, check out, or access until
25 there is a final decision by the review committee;
- 26 (4) the review committee to evaluate the request for removal
27 form, review the challenged library material, and report in writing
28 its recommendations to the governing body on whether to remove
29 the library material within 30 business days from the date of
30 receiving the form. A copy of the committee's report shall also be
31 provided to the individual with a vested interest who filed the form;
32 and
- 33 (5) require the governing body to review the committee's report
34 and make a final determination on whether the library material is to
35 be removed from the public library, or limited in use. The
36 governing body shall provide a written statement of reasons for:
- 37 (a) the removal, limitation, or non-removal of a library material;
38 and
- 39 (b) any final determination that is contrary to the
40 recommendations of the review committee; and
- 41 (6) provide that a library material that has been challenged
42 pursuant to paragraphs (1) through (5) of this subsection shall not
43 be subject to a subsequent challenge for at least one year.
- 44 c. The model policy shall be updated as the State Librarian and
45 New Jersey Library Association deem necessary.
- 46 d. A governing body of a public library shall adopt the model
47 policy established pursuant to this section. In the event a public
48 library has a policy that complies with the requirements of

1 subsection b. of this section as of the effective date of this act, the
2 library shall not be required to take further action.

3 e. A governing body determination issued in accordance with the
4 policy established in subsection b. of this section shall be final and
5 binding for a period of five years.

6 f. Nothing in this section shall be construed as creating a separate
7 legal cause of action regarding any determination issued pursuant to
8 the policy established pursuant to subsection b. of this section.

9
10 11. a. A governing body of a public library shall not remove
11 library material from a public library because of the origin,
12 background, or views of the library material or those contributing to
13 its creation, and shall not engage in censorship of library material.

14 b. The governing body of a public library shall allow a resident
15 to reserve or check out any library material, including diverse and
16 inclusive material.

17
18 12. Any staff member of a public library, including a librarian
19 employed by a public library, shall be immune from civil and
20 criminal liability arising from good faith actions performed
21 pursuant to the provisions of sections 9 through 11 of this act.

22
23 13. This act shall take effect one year next following the date of
24 enactment, but the Commissioner of Education and State Librarian
25 may take such anticipatory action as may be necessary for the
26 implementation of the act.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3446

STATE OF NEW JERSEY

DATED: JUNE 6, 2024

The Assembly Education committee reports favorably Assembly Committee Substitute for Assembly Bill No. 3446.

This committee substitute, entitled the "Freedom to Read Act," establishes requirements for library material in public school libraries and public libraries and establishes protections for school library staff members and librarians.

Under the committee substitute, boards of education and governing boards of public libraries are required to adopt policies on the curation of library material within school libraries and public libraries as required in the substitute. To assist boards of education in establishing a policy on the library material within school libraries, the Commissioner of Education is to create a model policy in consultation with the State Librarian, the New Jersey Association of School Librarians, and the New Jersey School Boards Association. The committee substitute also requires the State Librarian to establish a model policy, in consultation with the New Jersey Library Association, for use and adoption by public libraries.

The committee substitute further requires boards of education and governing boards of public libraries to adopt policies creating a procedure regarding requests for removal of library material from a school library or public library. These policies are to, among other requirements, establish a mechanism to challenge a library material, create a review committee, and require a written statement of reasons on the final determination of the library material.

Boards of education and governing boards of public libraries are not to exclude library material from the library because of the origin, background, or views of the library material or those contributing to its creation. Boards of education and governing boards of public libraries are not permitted to engage in censorship. Students and residents are to be able to reserve or check out any developmentally appropriate library material, including diverse and inclusive material.

Further, this committee substitute provides that a school library staff member, librarian, and any staff member of a public library is to be immune from civil and criminal liability for good faith actions in complying with the requirements of the substitute.

“Library material” is defined to mean any material including, but not limited to, nonfiction and fiction books; magazines; reference books; supplementary titles; multimedia and digital material; software and instructional material and other material not required as part of classroom instruction, belonging to, on loan to, or otherwise in the custody of a school library or public library.

The committee substitute defines “diverse and inclusive material” to mean any material that reflects any protected class as enumerated in the "Law Against Discrimination," (LAD); material produced by an author notwithstanding the author’s membership in a protected class as enumerated in the LAD; and material that contains the author's points of view concerning contemporary problems and issues, whether international, national or local; but excludes content that is inappropriate for grades groups served by the school library. The LAD bars discrimination on the basis of a person’s race, creed, color, national origin, ancestry, age, sex, gender identity or expression, affectional or sexual orientation, marital status, liability for service in the Armed Forces, disability, or nationality.

“Censorship” means to block or suppress library material based on disagreement with a viewpoint, idea, or concept, or solely because an individual finds certain content offensive, but does not include limiting or restricting access to any library material deemed developmentally inappropriate for certain age groups.

SENATE EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3446

STATE OF NEW JERSEY

DATED: SEPTEMBER 30, 2024

The Senate Education Committee favorably reports an Assembly Committee Substitute for Assembly Bill No. 3446.

This committee substitute, entitled the "Freedom to Read Act," establishes requirements for library material in public school libraries and public libraries and establishes protections for school library staff members and librarians.

Under the committee substitute, boards of education and governing boards of public libraries are required to adopt policies on the curation of library material within school libraries and public libraries as required in the substitute. To assist boards of education in establishing a policy on the library material within school libraries, the Commissioner of Education is to create a model policy in consultation with the State Librarian, the New Jersey Association of School Librarians, and the New Jersey School Boards Association. The committee substitute also requires the State Librarian to establish a model policy, in consultation with the New Jersey Library Association, for use and adoption by public libraries.

The committee substitute further requires boards of education and governing boards of public libraries to adopt policies creating a procedure regarding requests for removal of library material from a school library or public library. These policies are to, among other requirements, establish a mechanism to challenge a library material, create a review committee, and require a written statement of reasons on the final determination of the library material.

Boards of education and governing boards of public libraries are not to exclude library material from the library because of the origin, background, or views of the library material or those contributing to its creation. Boards of education and governing boards of public libraries are not permitted to engage in censorship. Students and residents are to be able to reserve or check out any developmentally appropriate library material, including diverse and inclusive material.

Further, this committee substitute provides that a school library staff member, librarian, and any staff member of a public library is to be immune from civil and criminal liability for good faith actions in complying with the requirements of the substitute.

“Library material” is defined in the committee substitute as any material, including nonfiction and fiction books; magazines; reference books; supplementary titles; multimedia and digital material; software and instructional material and other material not required as part of classroom instruction, belonging to, on loan to, or otherwise in the custody of a school library or public library.

The committee substitute defines “diverse and inclusive material” to mean any material that reflects any protected class as enumerated in the "Law Against Discrimination" (LAD); material produced by an author notwithstanding the author’s membership in a protected class as enumerated in the LAD; and material that contains the author's points of view concerning contemporary problems and issues, whether international, national or local; but excludes content that is inappropriate for grades served by the school library. The LAD bars discrimination on the basis of a person’s race, creed, color, national origin, ancestry, age, sex, gender identity or expression, affectional or sexual orientation, marital status, liability for service in the Armed Forces, disability, or nationality.

“Censorship” is defined in the committee substitute as to block or suppress library material based on disagreement with a viewpoint, idea, or concept, or solely because an individual finds certain content offensive, but does not include limiting or restricting access to any library material deemed developmentally inappropriate for certain age groups.

As reported by the committee, the Assembly Committee Substitute for Assembly Bill No. 3446 is identical to the Senate Committee Substitute for Senate Bill No. 2421, which was also reported by the committee on this date.

SENATE, No. 2421

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JANUARY 29, 2024

Sponsored by:

Senator ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Senator M. TERESA RUIZ

District 29 (Essex and Hudson)

Co-Sponsored by:

Senators McKnight, McKeon, B.Smith, Mukherji, Stack and Burgess

SYNOPSIS

"Freedom to Read Act"; establishes requirements for library material in public school libraries and public libraries; protects school library media specialists and librarians from harassment.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/12/2024)

1 AN ACT concerning public school libraries and public libraries,
2 supplementing Title 18A of the New Jersey Statutes, and
3 amending N.J.S.2C:34-3 and P.L.1945, c.169.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) Sections 1 through 12 of P.L. , c.
9 (C.) (pending before the Legislature as this bill) shall be
10 known and may be cited as the "Freedom to Read Act."

11
12 2. (New section) The Legislature finds and declares that:

13 a. The freedom to read is a human right, constitutionally
14 protected by the First Amendment of the United States Constitution,
15 and individuals have the right to free inquiry and the right to form
16 their own opinions.

17 b. The freedom to read does not require a person to agree with
18 topics or themes within a material, but instead allows a reader to
19 explore and engage with differing perspectives to form and inform
20 their own views.

21 c. Since Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393
22 U.S. 503 (1969), it has been well established that students do not
23 "shed their constitutional rights to freedom of speech or expression
24 at the schoolhouse gate[,]" and, as such, students have a right to
25 access a diverse range of age-relevant information, stories,
26 perspectives, and ideas.

27 d. In Bd. of Ed. v. Pico, 457 U.S. 853 (1982), the United
28 States Supreme Court recognized that school libraries are
29 "completely voluntary on the part of students[,]" a student's
30 selection of books from a school library "is entirely a matter of free
31 choice[,]" and the school library affords a student "an opportunity
32 at self-education and individual enrichment that is wholly optional."

33 e. School libraries and public libraries, as centers for voluntary
34 inquiry, play a unique role in promoting intellectual freedom,
35 providing equitable access to learning resources, and promoting
36 democracy by providing service to all regardless of race, ethnicity,
37 creed, age, ability, gender, or socio-economic status.

38 f. School library media specialists and librarians are essential
39 members of the community; as trained professionals, they help
40 young people of all backgrounds find and interpret the information
41 they need to succeed in school and prepare for college, careers, and
42 life.

43 g. School library media specialists and librarians receive
44 extensive professional training that prepares them to develop and
45 curate collections designed to meet the broad and varied interests

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 and needs of their communities and students, which is based on a
2 variety of factors, including pedagogical value, student interest, and
3 the age-appropriateness of the material.

4 h. Despite this, school library media specialists and librarians
5 have been targeted, harassed, and defamed for providing young
6 people access to library material.

7 i. Therefore, it is necessary and proper for the Legislature to
8 protect the freedom of New Jersey's residents to read, for school
9 libraries and public libraries to acquire and maintain materials
10 without external limitations, to recognize that school library media
11 specialists and librarians are trained to curate and develop
12 collections, and to protect school library media specialists and
13 librarians from unnecessary and unwarranted harassment and
14 defamation for performance of their duties.

15

16 3. (New section) As used in sections 4 through 7 of
17 P.L. , c. (C.) (pending before the
18 Legislature as this bill):

19 "Diverse and inclusive material" means any material that reflects
20 any protected class as enumerated in the "Law Against
21 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.); material
22 produced by an author notwithstanding the author's membership in
23 a protected class as enumerated in the "Law Against
24 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.); and material
25 that contains the author's points of view concerning contemporary
26 problems and issues, whether international, national, or local; but
27 excludes content that is inappropriate for grades and age groups
28 served by the school library.

29 "Emotional distress" means significant mental suffering or
30 distress.

31 "Harassment" or "harasses" means a singular act that is severe or
32 pervasive, or a series of acts over any period of time directed at a
33 specific person that serves no legitimate purpose and would cause,
34 or has caused, a reasonable person to suffer emotional distress.

35 "Library material" means any material including, but not limited
36 to, nonfiction and fiction books; magazines; reference books;
37 supplementary titles; multimedia and digital material; software and
38 instructional material and other material not required as part of
39 classroom instruction, belonging to, on loan to, or otherwise in the
40 custody of a school library.

41

42 4. (New section) a. A board of education shall adopt a policy
43 on the curation of library material within a school library. When
44 developing the policy, the board shall review the model policy
45 established by the Commissioner of Education pursuant to
46 subsection b. of this section. The board shall have control over the
47 content of the policy, except that the policy shall, at a minimum:

- 1 (1) recognize that library material should be provided for the
2 interest, information, and enlightenment of all students and should
3 present diverse points of view in the collection as a whole;
- 4 (2) require student access to age- and grade-appropriate diverse
5 and inclusive material;
- 6 (3) acknowledge that library material should not be excluded
7 from a school library because of the origin, background, or views of
8 those contributing to its creation;
- 9 (4) provide access to library material that is relevant to the
10 research, independent reading interests, and educational needs of
11 students based on a student's age, development, or grade level;
- 12 (5) recognize the importance of school libraries as centers for
13 voluntary inquiry and the dissemination of information and ideas;
- 14 (6) promote the free expression and free access to ideas by
15 students by prohibiting the censorship of library material;
- 16 (7) acknowledge that a school library media specialist is
17 professionally trained to curate and develop the school library
18 collection that provides students with access to the widest array of
19 age- and grade-appropriate library material available to schools; and
20 (8) establish a procedure for a school library media specialist to
21 review library material within a school library on an ongoing basis,
22 which shall include, but not be limited to: the library material's
23 relevance; the condition of the library material; the availability of
24 duplicates; the availability of more recent age; or grade-appropriate
25 material; and the continued demand for the library material.
- 26 b. To assist boards of education in developing a policy on the
27 curation of library material within a school library, the
28 commissioner shall develop a model policy. In developing the
29 model policy, the commissioner shall consult with the State
30 Librarian and the New Jersey Association of School Librarians.
31 The model policy shall be updated as the commissioner deems
32 necessary.
- 33
- 34 5. (New section) a. A board of education shall adopt a policy
35 establishing a procedure regarding a request for removal of library
36 material within a school library.
- 37 b. The board shall have control over the policy, except that the
38 policy shall, at a minimum:
 - 39 (1) provide for the creation of a request for removal form that
40 may be submitted by an individual with a vested interest to the
41 principal of the school in which the library material is challenged to
42 initiate a review of the material. An individual with a vested
43 interest shall include any teaching staff member employed by the
44 board of education, any parent or guardian of a student enrolled in
45 the school district at the time the form is filed, and any student
46 enrolled in the district at the time the form is filed;

1 (2) require the principal or principal's designee to appoint a
2 review committee within 10 school days of receiving a request for
3 removal form, consisting of:

- 4 (a) the principal or the principal's designee;
- 5 (b) the school library media specialist or a teaching staff
6 member similarly trained;
- 7 (c) a representative selected by the board of education;
- 8 (d) at least one grade-appropriate teacher familiar with the
9 library material, provided the teacher selected is not the individual
10 who submitted the form;
- 11 (e) a parent or guardian of a student enrolled in the school
12 district, provided the parent or guardian selected is not the
13 individual who submitted the form;
- 14 (f) if the individual who submitted the form is enrolled in
15 grades nine through 12, a student enrolled in the district, provided
16 the student selected is not the individual who submitted the form;
17 and

18 (g) any additional members the principal deems necessary;

19 (3) require that a challenged library material remain within the
20 school library and available for a student to reserve, check out, or
21 access until there is a final decision reached by the board of
22 education pursuant to paragraph (5) of this subsection;

23 (4) require the review committee evaluate the request for
24 removal form, review the challenged library material, and report its
25 recommendations on whether to remove the library material to the
26 board of education within 30 school days from the date of receiving
27 the form. A copy of the committee's report shall also be provided
28 to the individual with a vested interest who filed the form and the
29 principal; and

30 (5) require the board of education to review the committee's
31 report and make a final determination on whether the library
32 material is to be removed from the school library. The board shall
33 provide a written statement of reasons for:

- 34 (a) the removal or non-removal of a library material; and
- 35 (b) any final determination that is contrary to the
36 recommendations of the review committee.

37

38 6. (New section) a. Notwithstanding any other provision of
39 law to the contrary, a board of education shall ensure that each
40 school in the district includes diverse and inclusive material as part
41 of its library material.

42 b. A board of education shall allow a student to reserve, check
43 out, or access any age- and grade-appropriate library material,
44 including diverse and inclusive material.

45

46 7. (New section) a. A school library media specialist or any
47 other teaching staff member that engages in activities as required by
48 sections 4 through 6 of P.L. , c. (C.) (pending

1 before the Legislature as this bill) shall be immune from criminal
2 and civil liability arising from good faith actions performed
3 pursuant to the provisions of those sections.

4 b. (1) A school library media specialist or any other teaching
5 staff member that engages in activities as required by sections 4
6 through 6 of P.L. , c. (C.) (pending before
7 the Legislature as this bill) shall have a civil cause of action for
8 emotional distress, defamation, libel, slander, damage to reputation,
9 or any other relevant tort, against any person who harasses the
10 school library media specialist or any other teaching staff member
11 for complying with the provisions of those sections.

12 (2) If the school library media specialist or any other teaching
13 staff member that engages in activities as required by sections 4
14 through 6 of P.L. , c. (C.) (pending before
15 the Legislature as this bill) is the prevailing party in the civil cause
16 of action, the school library media specialist or teaching staff
17 member shall be entitled to an award of any reasonable attorney's
18 fees and costs of suit incurred, and any injunctive relief as the court
19 may deem necessary to avoid the defendant's continued violation.

20

21 8. (New section) As used in sections 9 through 12 of P.L. , c.
22 (C.) (pending before the Legislature as this bill):

23 "Diverse and inclusive material" means material that reflects any
24 protected class as enumerated in the "Law Against Discrimination,"
25 P.L.1945, c.169 (C.10:5-1 et seq.); material produced by an author
26 notwithstanding the author's membership in a protected class as
27 enumerated in the "Law Against Discrimination," P.L.1945, c.169
28 (C.10:5-1 et seq.); and material that contains the author's points of
29 view concerning contemporary problems and issues, whether
30 international, national or local.

31 "Emotional distress" means significant mental suffering or
32 distress.

33 "Governing body" means a board of trustees, director or other
34 chief administrative officer, a county library commission, or board
35 of county commissioners of a public library.

36 "Harassment" or "harasses" means a singular act that is severe or
37 pervasive, or a series of acts over any period of time directed at a
38 specific person that serves no legitimate purpose and would cause,
39 or has caused, a reasonable person to suffer emotional distress.

40 "Library material" means any material including, but not limited
41 to, nonfiction and fiction books; magazines; reference books;
42 supplementary titles; multimedia and digital material; software and
43 instructional material, belonging to, on loan to, or otherwise in the
44 custody of a public library.

45 "Public library" means a library that serves, free of charge, all
46 residents of an area as established pursuant to chapter 33 or chapter
47 54 of Title 40 of the Revised Statutes, and receives financial
48 support, in whole or in part, from public funds; or a library

1 established pursuant to N.J.S.15A:1-1 et seq. and receiving public
2 funds pursuant to R.S.40:54-35.

3

4 9. (New section) a. In addition to the duties prescribed in
5 section 18 of P.L.1969, c.158 (C.18A:73-33), the State Librarian
6 shall establish a model policy on the curation of library material
7 within a public library. In developing the model policy, the State
8 Librarian shall consult with the New Jersey Library Association.

9 b. The model policy shall, at a minimum:

10 (1) recognize that public libraries serve as centers for voluntary
11 inquiry and the dissemination of information and ideas;

12 (2) promote the free expression and free access to ideas by
13 residents by prohibiting the censorship of library material;

14 (3) acknowledge that library material should not be excluded
15 from a public library because of the origin, background, or views of
16 those contributing to its creation;

17 (4) require that residents be provided access to diverse and
18 inclusive material;

19 (5) recognize that library material should be provided for the
20 interest, information, and enlightenment of all people, and should
21 present diverse points of view in the collection as a whole;

22 (6) acknowledge that a librarian is professionally trained to
23 curate and develop collections that provide residents with access to
24 the widest array of library material available to the public library;
25 and

26 (7) establish a procedure for a librarian to review library
27 material within a public library on an ongoing basis, which shall
28 include, but not be limited to: the library material's relevance; the
29 condition of the library material; the availability of duplicates; the
30 availability of more recent material; and the continued demand for
31 the library material.

32 c. The model policy shall be updated as the State Librarian
33 deems necessary.

34

35 10. (New section) a. In addition to the duties prescribed in
36 section 18 of P.L.1969, c.158 (C.18A:73-33), the State Librarian
37 shall establish a model policy establishing a procedure regarding a
38 request for removal of library material within a public library. In
39 developing the model policy, the State Librarian shall consult with
40 the New Jersey Library Association.

41 b. The model policy shall, at a minimum, require:

42 (1) the creation of a request for removal form that may be
43 submitted by an individual with a vested interest to the governing
44 body of the public library in which the library material is
45 challenged to initiate a review of the material. An individual with a
46 vested interest shall include any resident who is served by the
47 public library;

1 (2) the governing body appoint a review committee within 10
2 business days of receiving a request for removal form, consisting
3 of;

- 4 (a) at least one member of the governing body;
- 5 (b) a librarian employed by the public library;
- 6 (c) a staff member, who is not a librarian, of the public library
7 that is familiar with the library material;
- 8 (d) a representative selected by the governing body;
- 9 (e) a resident serviced by the public library, provided the
10 resident selected is not the individual who submitted the form; and
- 11 (f) any additional members the governing body deems
12 necessary;

13 (3) a challenged library material remain within the public library
14 and available for a resident to reserve, check out, or access until
15 there is a final decision by the review committee;

16 (4) the review committee evaluate the request for removal form,
17 review the challenged library material, and report its
18 recommendations to the governing body on whether to remove the
19 library material within 30 business days from the date of receiving
20 the form. A copy of the committee's report shall also be provided
21 to the individual with a vested interest who filed the form; and

22 (5) require the governing body to review the committee's report
23 and make a final determination on whether the library material is to
24 be removed from the public library. The board shall provide a
25 written statement of reasons for:

- 26 (a) the removal or non-removal of a library material; and
- 27 (b) any final determination that is contrary to the
28 recommendations of the review committee.

29

30 11. (New section) a. Notwithstanding any State or federal law to
31 the contrary, a governing body of a public library shall include
32 diverse and inclusive material as part of its library material. The
33 governing body of a public library shall provide a resident access to
34 all library material, including diverse and inclusive material.

35 b. A governing body of a public library shall adopt the policies
36 established by the State Librarian pursuant to sections 9 and 10 of
37 P.L. , c. (C. and C.) (pending before
38 the Legislature as this bill).

39

40 12. (New section) a. Any staff member of a public library,
41 including a librarian employed by a public library, shall be immune
42 from criminal and civil liability arising from good faith actions
43 performed pursuant to the provisions of section 11 of P.L. ,
44 c. (C.) (pending before the Legislature as this bill).

45 b. (1) Any staff member of a public library, including a
46 librarian employed by a public library, shall have a civil cause of
47 action for emotional distress, defamation, libel, slander, damage to
48 reputation, or any other relevant tort, against any person who

1 harasses the staff member for complying with the provisions of
2 section 11 of P.L. _____, c. _____ (C. _____) (pending before
3 the Legislature as this bill).

4 (2) If the staff member or librarian employed by a public library
5 is the prevailing party in the civil cause of action, the library staff
6 member shall be entitled to an award of any reasonable attorney's
7 fees and costs of suit incurred, and any injunctive relief as the court
8 may deem necessary to avoid the defendant's continued violation.

9
10 13. N.J.S.2C:34-3 is amended to read as follows:

11 2C:34-3. Obscenity For Persons Under 18.

12 a. Definitions for purposes of this section:

13 (1) "Obscene material" means any description, narrative
14 account, display, depiction of a specified anatomical area or
15 specified sexual activity contained in, or consisting of, a picture or
16 other representation, publication, sound recording, live performance
17 or film, which by means of posing, composition, format or animated
18 sensual details, emits sensuality with sufficient impact to
19 concentrate prurient interest on the area or activity.

20 (2) "Obscene film" means any motion picture film or preview or
21 trailer to a film, not including newsreels portraying actual current
22 events or pictorial news of the day, in which a scene, taken by
23 itself:

24 (a) Depicts a specified anatomical area or specified sexual
25 activity, or the simulation of a specified sexual activity, or
26 verbalization concerning a specified sexual activity; and

27 (b) Emits sensuality sufficient, in terms of the duration and
28 impact of the depiction, to appeal to prurient interest.

29 (3) "Specified anatomical area" means:

30 (a) Less than completely and opaquely covered human genitals,
31 pubic region, buttock or female breasts below a point immediately
32 above the top of the areola; or

33 (b) Human male genitals in a discernibly turgid state, even if
34 covered.

35 (4) "Specified sexual activity" means:

36 (a) Human genitals in a state of sexual stimulation or arousal; or

37 (b) Any act of human masturbation, sexual intercourse or
38 deviate sexual intercourse; or

39 (c) Fondling or other erotic touching of covered or uncovered
40 human genitals, pubic region, buttock or female breast.

41 (5) "Knowingly" means:

42 (a) Having knowledge of the character and content of the
43 material or film described herein; or

44 (b) Having failed to exercise reasonable inspection which would
45 disclose its character and content.

46 (6) "Exhibit" means the sale of admission to view obscene
47 material.

48 (7) "Show" means cause or allow to be seen.

1 b. Promoting obscene material.

2 (1) A person who knowingly sells, distributes, rents or exhibits
3 to a person under 18 years of age obscene material is guilty of a
4 crime of the third degree.

5 (2) A person who knowingly shows obscene material to a person
6 under 18 years of age with the knowledge or purpose to arouse,
7 gratify or stimulate himself or another is guilty of a crime of the
8 third degree if the person showing the obscene material is at least
9 four years older than the person under 18 years of age viewing the
10 material.

11 c. Admitting to exhibition of obscene film.

12 (1) Any person who knowingly admits a person under 18 years
13 of age to a theatre then exhibiting an obscene film is guilty of a
14 crime of the third degree.

15 (2) A person who knowingly shows an obscene film to a person
16 under 18 years of age with the knowledge or purpose to arouse,
17 gratify or stimulate himself or another is guilty of a crime of the
18 third degree if the person showing the obscene film is at least four
19 years older than the person under 18 years of age viewing the film.

20 d. Presumption of knowledge and age.

21 The requisite knowledge with regard to the character and content
22 of the film or material and of the age of the person is presumed in
23 the case of an actor who sells, distributes, rents, exhibits or shows
24 obscene material to a person under 18 years of age or admits to a
25 film obscene for a person under 18 years of age a person who is
26 under 18 years of age.

27 e. Defenses.

28 (1) It is an affirmative defense to a prosecution under
29 subsections b. and c. which the defendant must prove by a
30 preponderance of evidence that:

31 (a) The person under age 18 falsely represented in or by writing
32 that he was age 18 or over;

33 (b) The person's appearance was such that an individual of
34 ordinary prudence would believe him to be age 18 or over; and

35 (c) The sale, distribution, rental, showing or exhibition to or
36 admission of the person was made in good faith relying upon such
37 written representation and appearance and in the reasonable belief
38 that he was actually age 18 or over.

39 (2) It is an affirmative defense to a prosecution under subsection
40 c. that the defendant is an employee in a motion picture theatre who
41 has no financial interest in that motion picture theatre other than his
42 wages and has no decision-making authority or responsibility with
43 respect to the selection of the motion picture show which is
44 exhibited.

45 (3) (a) It is an affirmative defense to a prosecution under
46 subsection b. that the defendant is a teaching staff member,
47 including a school library media specialist, who is engaged in the
48 performance of the person's duties and complying with the

1 provisions of sections 1 through 7 of
2 P.L. _____, c. _____ (C. _____) (pending before the Legislature
3 as this bill). As used in this paragraph, “teaching staff member” has
4 the meaning set forth in N.J.S.18A:1-1.

5 (b) It is an affirmative defense to a prosecution under subsection
6 b. that the defendant is a staff member of a public library, including
7 a librarian employed by a public library who is engaged in the
8 performance of the person’s duties and complying with the
9 provisions of sections 8 through 12 of
10 P.L. _____, c. _____ (C. _____) (pending before the Legislature
11 as this bill). As used in this paragraph, “public library” means a
12 library that serves, free of charge, all residents of an area as
13 established pursuant to chapter 33 or chapter 54 of Title 40 of the
14 New Jersey Statutes, and receives financial support, in whole or in
15 part, from public funds; or a library established pursuant to
16 N.J.S.15A:1-1 et seq. and receiving public funds pursuant to
17 R.S.40:54-35.

18 (cf: P.L.1999, c.227, s.1)

19

20 14. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to
21 read as follows:

22 11. It shall be an unlawful employment practice, or, as the case
23 may be, an unlawful discrimination:

24 a. For an employer, because of the race, creed, color, national
25 origin, ancestry, age, marital status, civil union status, domestic
26 partnership status, affectional or sexual orientation, genetic
27 information, pregnancy or breastfeeding, sex, gender identity or
28 expression, disability or atypical hereditary cellular or blood trait of
29 any individual, or because of the liability for service in the Armed
30 Forces of the United States or the nationality of any individual, or
31 because of the refusal to submit to a genetic test or make available
32 the results of a genetic test to an employer, or because of the refusal
33 of a school library media specialist or teaching staff member to
34 remove library material from a school library except to the extent
35 permitted pursuant to sections 4 and 5 of
36 P.L. _____, c. _____ (C. _____ and C. _____) (pending before the Legislature
37 as this bill), or because of the refusal of any staff member of a
38 public library, including a librarian, to remove library material from
39 a public library except to the extent permitted pursuant to sections 9
40 and 10 of P.L. _____, c. _____ (C. _____ and C. _____) (pending before the
41 Legislature as this bill), to refuse to hire or employ or to bar or to
42 discharge or require to retire, unless justified by lawful
43 considerations other than age, from employment such individual or
44 to discriminate against such individual in compensation or in terms,
45 conditions or privileges of employment; provided, however, it shall
46 not be an unlawful employment practice to refuse to accept for
47 employment an applicant who has received a notice of induction or
48 orders to report for active duty in the armed forces; provided further

1 that nothing herein contained shall be construed to bar an employer
2 from refusing to accept for employment any person on the basis of
3 sex in those certain circumstances where sex is a bona fide
4 occupational qualification, reasonably necessary to the normal
5 operation of the particular business or enterprise; provided further
6 that it shall not be an unlawful employment practice for a club
7 exclusively social or fraternal to use club membership as a uniform
8 qualification for employment, or for a religious association or
9 organization to utilize religious affiliation as a uniform qualification
10 in the employment of clergy, religious teachers or other employees
11 engaged in the religious activities of the association or organization,
12 or in following the tenets of its religion in establishing and utilizing
13 criteria for employment of an employee; provided further, that it
14 shall not be an unlawful employment practice to require the
15 retirement of any employee who, for the two-year period
16 immediately before retirement, is employed in a bona fide executive
17 or a high policy-making position, if that employee is entitled to an
18 immediate non-forfeitable annual retirement benefit from a pension,
19 profit sharing, savings or deferred retirement plan, or any
20 combination of those plans, of the employer of that employee which
21 equals in the aggregate at least \$27,000.00; and provided further
22 that an employer may restrict employment to citizens of the United
23 States where such restriction is required by federal law or is
24 otherwise necessary to protect the national interest.

25 The provisions of subsections a. and b. of section 57 of
26 P.L.2003, c.246 (C.34:11A-20), and the provisions of section 58 of
27 P.L.2003, c.246 (C.26:8A-11), shall not be deemed to be an
28 unlawful discrimination under P.L.1945, c.169 (C.10:5-1 et seq.).

29 For the purposes of this subsection, a "bona fide executive" is a
30 top level employee who exercises substantial executive authority
31 over a significant number of employees and a large volume of
32 business. A "high policy-making position" is a position in which a
33 person plays a significant role in developing policy and in
34 recommending the implementation thereof.

35 For the purposes of this subsection, an unlawful employment
36 practice occurs, with respect to discrimination in compensation or
37 in the financial terms or conditions of employment, each occasion
38 that an individual is affected by application of a discriminatory
39 compensation decision or other practice, including, but not limited
40 to, each occasion that wages, benefits, or other compensation are
41 paid, resulting in whole or in part from the decision or other
42 practice.

43 In addition to any other relief authorized by the "Law Against
44 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) for
45 discrimination in compensation or in the financial terms or
46 conditions of employment, liability shall accrue and an aggrieved
47 person may obtain relief for back pay for the entire period of time,
48 except not more than six years, in which the violation with regard to

1 discrimination in compensation or in the financial terms or
2 conditions of employment has been continuous, if the violation
3 continues to occur within the statute of limitations.

4 Nothing in this subsection shall prohibit the application of the
5 doctrine of "continuing violation" or the "discovery rule" to any
6 appropriate claim as those doctrines currently exist in New Jersey
7 common law. It shall be an unlawful employment practice to
8 require employees or prospective employees to consent to a
9 shortened statute of limitations or to waive any of the protections
10 provided by the "Law Against Discrimination," P.L.1945, c.169
11 (C.10:5-1 et seq.).

12 b. For a labor organization, because of the race, creed, color,
13 national origin, ancestry, age, marital status, civil union status,
14 domestic partnership status, affectional or sexual orientation,
15 gender identity or expression, disability, pregnancy or
16 breastfeeding, or sex of any individual, or because of the liability
17 for service in the Armed Forces of the United States or nationality
18 of any individual, to exclude or to expel from its membership such
19 individual or to discriminate in any way against any of its members,
20 against any applicant for, or individual included in, any apprentice
21 or other training program or against any employer or any individual
22 employed by an employer; provided, however, that nothing herein
23 contained shall be construed to bar a labor organization from
24 excluding from its apprentice or other training programs any person
25 on the basis of sex in those certain circumstances where sex is a
26 bona fide occupational qualification reasonably necessary to the
27 normal operation of the particular apprentice or other training
28 program.

29 c. For any employer or employment agency to print or circulate
30 or cause to be printed or circulated any statement, advertisement or
31 publication, or to use any form of application for employment, or to
32 make an inquiry in connection with prospective employment, which
33 expresses, directly or indirectly, any limitation, specification or
34 discrimination as to race, creed, color, national origin, ancestry,
35 age, marital status, civil union status, domestic partnership status,
36 affectional or sexual orientation, gender identity or expression,
37 disability, nationality, pregnancy or breastfeeding, or sex or liability
38 of any applicant for employment for service in the Armed Forces of
39 the United States, or any intent to make any such limitation,
40 specification or discrimination, unless based upon a bona fide
41 occupational qualification.

42 d. For any person to take reprisals against any person because
43 that person has opposed any practices or acts forbidden under this
44 act or because that person has sought legal advice regarding rights
45 under this act, shared relevant information with legal counsel,
46 shared information with a governmental entity, or filed a complaint,
47 testified or assisted in any proceeding under this act or to coerce,
48 intimidate, threaten or interfere with any person in the exercise or

1 enjoyment of, or on account of that person having aided or
2 encouraged any other person in the exercise or enjoyment of, any
3 right granted or protected by this act.

4 e. For any person, whether an employer or an employee or not,
5 to aid, abet, incite, compel or coerce the doing of any of the acts
6 forbidden under this act, or to attempt to do so.

7 f. (1) For any owner, lessee, proprietor, manager,
8 superintendent, agent, or employee of any place of public
9 accommodation directly or indirectly to refuse, withhold from or
10 deny to any person any of the accommodations, advantages,
11 facilities or privileges thereof, or to discriminate against any person
12 in the furnishing thereof, or directly or indirectly to publish,
13 circulate, issue, display, post or mail any written or printed
14 communication, notice, or advertisement to the effect that any of
15 the accommodations, advantages, facilities, or privileges of any
16 such place will be refused, withheld from, or denied to any person
17 on account of the race, creed, color, national origin, ancestry,
18 marital status, civil union status, domestic partnership status,
19 pregnancy or breastfeeding, sex, gender identity or expression,
20 affectional or sexual orientation, disability, liability for service in
21 the Armed Forces of the United States or nationality of such person,
22 or that the patronage or custom thereat of any person of any
23 particular race, creed, color, national origin, ancestry, marital status,
24 civil union status, domestic partnership status, pregnancy or
25 breastfeeding status, sex, gender identity or expression, affectional
26 or sexual orientation, disability, liability for service in the Armed
27 Forces of the United States or nationality is unwelcome,
28 objectionable or not acceptable, desired or solicited, and the
29 production of any such written or printed communication, notice or
30 advertisement, purporting to relate to any such place and to be made
31 by any owner, lessee, proprietor, superintendent or manager thereof,
32 shall be presumptive evidence in any action that the same was
33 authorized by such person; provided, however, that nothing
34 contained herein shall be construed to bar any place of public
35 accommodation which is in its nature reasonably restricted
36 exclusively to individuals of one sex, and which shall include but
37 not be limited to any summer camp, day camp, or resort camp,
38 bathhouse, dressing room, swimming pool, gymnasium, comfort
39 station, dispensary, clinic or hospital, or school or educational
40 institution which is restricted exclusively to individuals of one sex,
41 provided individuals shall be admitted based on their gender
42 identity or expression, from refusing, withholding from or denying
43 to any individual of the opposite sex any of the accommodations,
44 advantages, facilities or privileges thereof on the basis of sex;
45 provided further, that the foregoing limitation shall not apply to any
46 restaurant as defined in R.S.33:1-1 or place where alcoholic
47 beverages are served.

1 (2) Notwithstanding the definition of "a place of public
2 accommodation" as set forth in subsection l. of section 5 of
3 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,
4 manager, superintendent, agent, or employee of any private club or
5 association to directly or indirectly refuse, withhold from or deny to
6 any individual who has been accepted as a club member and has
7 contracted for or is otherwise entitled to full club membership any
8 of the accommodations, advantages, facilities or privileges thereof,
9 or to discriminate against any member in the furnishing thereof on
10 account of the race, creed, color, national origin, ancestry, marital
11 status, civil union status, domestic partnership status, pregnancy or
12 breastfeeding, sex, gender identity, or expression, affectional or
13 sexual orientation, disability, liability for service in the Armed
14 Forces of the United States or nationality of such person.

15 In addition to the penalties otherwise provided for a violation of
16 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2)
17 of subsection f. of this section is the holder of an alcoholic beverage
18 license issued under the provisions of R.S.33:1-12 for that private
19 club or association, the matter shall be referred to the Director of
20 the Division of Alcoholic Beverage Control who shall impose an
21 appropriate penalty in accordance with the procedures set forth in
22 R.S.33:1-31.

23 g. For any person, including but not limited to, any owner,
24 lessee, sublessee, assignee or managing agent of, or other person
25 having the right of ownership or possession of or the right to sell,
26 rent, lease, assign, or sublease any real property or part or portion
27 thereof, or any agent or employee of any of these:

28 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
29 to deny to or withhold from any person or group of persons any real
30 property or part or portion thereof because of race, creed, color,
31 national origin, ancestry, marital status, civil union status, domestic
32 partnership status, pregnancy or breastfeeding, sex, gender identity
33 or expression, affectional or sexual orientation, familial status,
34 disability, liability for service in the Armed Forces of the United
35 States, nationality, or source of lawful income used for rental or
36 mortgage payments;

37 (2) To discriminate against any person or group of persons
38 because of race, creed, color, national origin, ancestry, marital
39 status, civil union status, domestic partnership status, pregnancy or
40 breastfeeding, sex, gender identity or expression, affectional or
41 sexual orientation, familial status, disability, liability for service in
42 the Armed Forces of the United States, nationality or source of
43 lawful income used for rental or mortgage payments in the terms,
44 conditions or privileges of the sale, rental or lease of any real
45 property or part or portion thereof or in the furnishing of facilities
46 or services in connection therewith;

47 (3) To print, publish, circulate, issue, display, post or mail, or
48 cause to be printed, published, circulated, issued, displayed, posted

1 or mailed any statement, advertisement, publication or sign, or to
2 use any form of application for the purchase, rental, lease,
3 assignment or sublease of any real property or part or portion
4 thereof, or to make any record or inquiry in connection with the
5 prospective purchase, rental, lease, assignment, or sublease of any
6 real property, or part or portion thereof which expresses, directly or
7 indirectly, any limitation, specification or discrimination as to race,
8 creed, color, national origin, ancestry, marital status, civil union
9 status, domestic partnership status, pregnancy or breastfeeding, sex,
10 gender identity, or expression, affectional or sexual orientation,
11 familial status, disability, liability for service in the Armed Forces
12 of the United States, nationality, or source of lawful income used
13 for rental or mortgage payments, or any intent to make any such
14 limitation, specification or discrimination, and the production of
15 any such statement, advertisement, publicity, sign, form of
16 application, record, or inquiry purporting to be made by any such
17 person shall be presumptive evidence in any action that the same
18 was authorized by such person; provided, however, that nothing
19 contained in this subsection shall be construed to bar any person
20 from refusing to sell, rent, lease, assign or sublease or from
21 advertising or recording a qualification as to sex for any room,
22 apartment, flat in a dwelling or residential facility which is planned
23 exclusively for and occupied by individuals of one sex to any
24 individual of the exclusively opposite sex on the basis of sex
25 provided individuals shall be qualified based on their gender
26 identity or expression;

27 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
28 to deny to or withhold from any person or group of persons any real
29 property or part or portion thereof because of the source of any
30 lawful income received by the person or the source of any lawful
31 rent payment to be paid for the real property; or

32 (5) To refuse to rent or lease any real property to another person
33 because that person's family includes children under 18 years of
34 age, or to make an agreement, rental or lease of any real property
35 which provides that the agreement, rental or lease shall be rendered
36 null and void upon the birth of a child. This paragraph shall not
37 apply to housing for older persons as defined in subsection mm. of
38 section 5 of P.L.1945, c.169 (C.10:5-5).

39 h. For any person, including but not limited to, any real estate
40 broker, real estate salesperson, or employee or agent thereof:

41 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
42 sale, rental, lease, assignment, or sublease any real property or part
43 or portion thereof to any person or group of persons or to refuse to
44 negotiate for the sale, rental, lease, assignment, or sublease of any
45 real property or part or portion thereof to any person or group of
46 persons because of race, creed, color, national origin, ancestry,
47 marital status, civil union status, domestic partnership status,
48 familial status, pregnancy or breastfeeding, sex, gender identity or

1 expression, affectional or sexual orientation, liability for service in
2 the Armed Forces of the United States, disability, nationality, or
3 source of lawful income used for rental or mortgage payments, or to
4 represent that any real property or portion thereof is not available
5 for inspection, sale, rental, lease, assignment, or sublease when in
6 fact it is so available, or otherwise to deny or withhold any real
7 property or any part or portion of facilities thereof to or from any
8 person or group of persons because of race, creed, color, national
9 origin, ancestry, marital status, civil union status, domestic
10 partnership status, familial status, pregnancy or breastfeeding, sex,
11 gender identity or expression, affectional or sexual orientation,
12 disability, liability for service in the Armed Forces of the United
13 States, or nationality;

14 (2) To discriminate against any person because of race, creed,
15 color, national origin, ancestry, marital status, civil union status,
16 domestic partnership status, familial status, pregnancy or
17 breastfeeding, sex, gender identity or expression, affectional or
18 sexual orientation, disability, liability for service in the Armed
19 Forces of the United States, nationality, or source of lawful income
20 used for rental or mortgage payments in the terms, conditions or
21 privileges of the sale, rental, lease, assignment or sublease of any
22 real property or part or portion thereof or in the furnishing of
23 facilities or services in connection therewith;

24 (3) To print, publish, circulate, issue, display, post, or mail, or
25 cause to be printed, published, circulated, issued, displayed, posted
26 or mailed any statement, advertisement, publication or sign, or to
27 use any form of application for the purchase, rental, lease,
28 assignment, or sublease of any real property or part or portion
29 thereof or to make any record or inquiry in connection with the
30 prospective purchase, rental, lease, assignment, or sublease of any
31 real property or part or portion thereof which expresses, directly or
32 indirectly, any limitation, specification or discrimination as to race,
33 creed, color, national origin, ancestry, marital status, civil union
34 status, domestic partnership status, familial status, pregnancy or
35 breastfeeding, sex, gender identity or expression, affectional or
36 sexual orientation, disability, liability for service in the Armed
37 Forces of the United States, nationality, or source of lawful income
38 used for rental or mortgage payments or any intent to make any
39 such limitation, specification or discrimination, and the production
40 of any such statement, advertisement, publicity, sign, form of
41 application, record, or inquiry purporting to be made by any such
42 person shall be presumptive evidence in any action that the same
43 was authorized by such person; provided, however, that nothing
44 contained in this subsection h., shall be construed to bar any person
45 from refusing to sell, rent, lease, assign or sublease or from
46 advertising or recording a qualification as to sex for any room,
47 apartment, flat in a dwelling or residential facility which is planned
48 exclusively for and occupied exclusively by individuals of one sex

1 to any individual of the opposite sex on the basis of sex, provided
2 individuals shall be qualified based on their gender identity or
3 expression;

4 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
5 to deny to or withhold from any person or group of persons any real
6 property or part or portion thereof because of the source of any
7 lawful income received by the person or the source of any lawful
8 rent payment to be paid for the real property; or

9 (5) To refuse to rent or lease any real property to another person
10 because that person's family includes children under 18 years of
11 age, or to make an agreement, rental or lease of any real property
12 which provides that the agreement, rental or lease shall be rendered
13 null and void upon the birth of a child. This paragraph shall not
14 apply to housing for older persons as defined in subsection mm. of
15 section 5 of P.L.1945, c.169 (C.10:5-5).

16 i. For any person, bank, banking organization, mortgage
17 company, insurance company or other financial institution, lender
18 or credit institution involved in the making or purchasing of any
19 loan or extension of credit, for whatever purpose, whether secured
20 by residential real estate or not, including but not limited to
21 financial assistance for the purchase, acquisition, construction,
22 rehabilitation, repair or maintenance of any real property or part or
23 portion thereof or any agent or employee thereof:

24 (1) To discriminate against any person or group of persons
25 because of race, creed, color, national origin, ancestry, marital
26 status, civil union status, domestic partnership status, pregnancy or
27 breastfeeding, sex, gender identity or expression, affectional or
28 sexual orientation, disability, liability for service in the Armed
29 Forces of the United States, familial status or nationality, in the
30 granting, withholding, extending, modifying, renewing, or
31 purchasing, or in the fixing of the rates, terms, conditions or
32 provisions of any such loan, extension of credit or financial
33 assistance or purchase thereof or in the extension of services in
34 connection therewith;

35 (2) To use any form of application for such loan, extension of
36 credit or financial assistance or to make record or inquiry in
37 connection with applications for any such loan, extension of credit
38 or financial assistance which expresses, directly or indirectly, any
39 limitation, specification or discrimination as to race, creed, color,
40 national origin, ancestry, marital status, civil union status, domestic
41 partnership status, pregnancy or breastfeeding, sex, gender identity
42 or expression, affectional or sexual orientation, disability, liability
43 for service in the Armed Forces of the United States, familial status
44 or nationality or any intent to make any such limitation,
45 specification or discrimination; unless otherwise required by law or
46 regulation to retain or use such information;

47 (3) (Deleted by amendment, P.L.2003, c.180).

1 (4) To discriminate against any person or group of persons
2 because of the source of any lawful income received by the person
3 or the source of any lawful rent payment to be paid for the real
4 property; or

5 (5) To discriminate against any person or group of persons
6 because that person's family includes children under 18 years of
7 age, or to make an agreement or mortgage which provides that the
8 agreement or mortgage shall be rendered null and void upon the
9 birth of a child. This paragraph shall not apply to housing for older
10 persons as defined in subsection mm. of section 5 of P.L.1945,
11 c.169 (C.10:5-5).

12 j. For any person whose activities are included within the
13 scope of this act to refuse to post or display such notices concerning
14 the rights or responsibilities of persons affected by this act as the
15 Attorney General may by regulation require.

16 k. For any real estate broker, real estate salesperson or
17 employee or agent thereof or any other individual, corporation,
18 partnership, or organization, for the purpose of inducing a
19 transaction for the sale or rental of real property from which
20 transaction such person or any of its members may benefit
21 financially, to represent that a change has occurred or will or may
22 occur in the composition with respect to race, creed, color, national
23 origin, ancestry, marital status, civil union status, domestic
24 partnership status, familial status, pregnancy or breastfeeding, sex,
25 gender identity or expression, affectional or sexual orientation,
26 disability, liability for service in the Armed Forces of the United
27 States, nationality, or source of lawful income used for rental or
28 mortgage payments of the owners or occupants in the block,
29 neighborhood or area in which the real property is located, and to
30 represent, directly or indirectly, that this change will or may result
31 in undesirable consequences in the block, neighborhood or area in
32 which the real property is located, including, but not limited to the
33 lowering of property values, an increase in criminal or anti-social
34 behavior, or a decline in the quality of schools or other facilities.

35 l. For any person to refuse to buy from, sell to, lease from or
36 to, license, contract with, or trade with, provide goods, services or
37 information to, or otherwise do business with any other person on
38 the basis of the race, creed, color, national origin, ancestry, age,
39 pregnancy or breastfeeding, sex, gender identity or expression,
40 affectional or sexual orientation, marital status, civil union status,
41 domestic partnership status, liability for service in the Armed
42 Forces of the United States, disability, nationality, or source of
43 lawful income used for rental or mortgage payments of such other
44 person or of such other person's family members, partners,
45 members, stockholders, directors, officers, managers,
46 superintendents, agents, employees, business associates, suppliers,
47 or customers. This subsection shall not prohibit refusals or other
48 actions (1) pertaining to employee-employer collective bargaining,

1 labor disputes, or unfair labor practices, or (2) made or taken in
2 connection with a protest of unlawful discrimination or unlawful
3 employment practices.

4 m. For any person to:

5 (1) Grant or accept any letter of credit or other document which
6 evidences the transfer of funds or credit, or enter into any contract
7 for the exchange of goods or services, where the letter of credit,
8 contract, or other document contains any provisions requiring any
9 person to discriminate against or to certify that he, she or it has not
10 dealt with any other person on the basis of the race, creed, color,
11 national origin, ancestry, age, pregnancy or breastfeeding, sex,
12 gender identity or expression, affectional or sexual orientation,
13 marital status, civil union status, domestic partnership status,
14 disability, liability for service in the Armed Forces of the United
15 States, or nationality of such other person or of such other person's
16 family members, partners, members, stockholders, directors,
17 officers, managers, superintendents, agents, employees, business
18 associates, suppliers, or customers.

19 (2) Refuse to grant or accept any letter of credit or other
20 document which evidences the transfer of funds or credit, or refuse
21 to enter into any contract for the exchange of goods or services, on
22 the ground that it does not contain such a discriminatory provision
23 or certification.

24 The provisions of this subsection shall not apply to any letter of
25 credit, contract, or other document which contains any provision
26 pertaining to employee-employer collective bargaining, a labor
27 dispute or an unfair labor practice, or made in connection with the
28 protest of unlawful discrimination or an unlawful employment
29 practice, if the other provisions of such letter of credit, contract, or
30 other document do not otherwise violate the provisions of this
31 subsection.

32 n. For any person to aid, abet, incite, compel, coerce, or induce
33 the doing of any act forbidden by subsections l. and m. of section
34 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to
35 do so. Such prohibited conduct shall include, but not be limited to:

36 (1) Buying from, selling to, leasing from or to, licensing,
37 contracting with, trading with, providing goods, services, or
38 information to, or otherwise doing business with any person
39 because that person does, or agrees or attempts to do, any such act
40 or any act prohibited by this subsection; or

41 (2) Boycotting, commercially blacklisting or refusing to buy
42 from, sell to, lease from or to, license, contract with, provide goods,
43 services or information to, or otherwise do business with any person
44 because that person has not done or refuses to do any such act or
45 any act prohibited by this subsection; provided that this subsection
46 shall not prohibit refusals or other actions either pertaining to
47 employee-employer collective bargaining, labor disputes, or unfair

1 labor practices, or made or taken in connection with a protest of
2 unlawful discrimination or unlawful employment practices.

3 o. For any multiple listing service, real estate brokers'
4 organization or other service, organization or facility related to the
5 business of selling or renting dwellings to deny any person access
6 to or membership or participation in such organization, or to
7 discriminate against such person in the terms or conditions of such
8 access, membership, or participation, on account of race, creed,
9 color, national origin, ancestry, age, marital status, civil union
10 status, domestic partnership status, familial status, pregnancy or
11 breastfeeding, sex, gender identity or expression, affectional or
12 sexual orientation, disability, liability for service in the Armed
13 Forces of the United States or nationality.

14 p. Nothing in the provisions of this section shall affect the
15 ability of an employer to require employees to adhere to reasonable
16 workplace appearance, grooming and dress standards not precluded
17 by other provisions of State or federal law, except that an employer
18 shall allow an employee to appear, groom and dress consistent with
19 the employee's gender identity or expression.

20 q. (1) For any employer to impose upon a person as a condition
21 of obtaining or retaining employment, including opportunities for
22 promotion, advancement or transfers, any terms or conditions that
23 would require a person to violate or forego a sincerely held
24 religious practice or religious observance, including but not limited
25 to the observance of any particular day or days or any portion
26 thereof as a Sabbath or other holy day in accordance with the
27 requirements of the religion or religious belief, unless, after
28 engaging in a bona fide effort, the employer demonstrates that it is
29 unable to reasonably accommodate the employee's religious
30 observance or practice without undue hardship on the conduct of the
31 employer's business. Notwithstanding any other provision of law to
32 the contrary, an employee shall not be entitled to premium wages or
33 premium benefits for work performed during hours to which those
34 premium wages or premium benefits would ordinarily be
35 applicable, if the employee is working during those hours only as an
36 accommodation to his religious requirements. Nothing in this
37 subsection q. shall be construed as reducing:

38 (a) The number of the hours worked by the employee which are
39 counted towards the accruing of seniority, pension or other benefits;
40 or

41 (b) Any premium wages or benefits provided to an employee
42 pursuant to a collective bargaining agreement.

43 (2) For an employer to refuse to permit an employee to utilize
44 leave, as provided for in this subsection q., which is solely used to
45 accommodate the employee's sincerely held religious observance or
46 practice. Except where it would cause an employer to incur an
47 undue hardship, no person shall be required to remain at his place
48 of employment during any day or days or portion thereof that, as a

1 requirement of his religion, he observes as his Sabbath or other holy
2 day, including a reasonable time prior and subsequent thereto for
3 travel between his place of employment and his home; provided that
4 any such absence from work shall, wherever practicable in the
5 reasonable judgment of the employer, be made up by an equivalent
6 amount of time and work at some other mutually convenient time,
7 or shall be charged against any leave with pay ordinarily granted,
8 other than sick leave, and any such absence not so made up or
9 charged, may be treated by the employer of that person as leave
10 taken without pay.

11 (3) (a) For purposes of this subsection q., "undue hardship"
12 means an accommodation requiring unreasonable expense or
13 difficulty, unreasonable interference with the safe or efficient
14 operation of the workplace or a violation of a bona fide seniority
15 system or a violation of any provision of a bona fide collective
16 bargaining agreement.

17 (b) In determining whether the accommodation constitutes an
18 undue hardship, the factors considered shall include:

19 (i) The identifiable cost of the accommodation, including the
20 costs of loss of productivity and of retaining or hiring employees or
21 transferring employees from one facility to another, in relation to
22 the size and operating cost of the employer.

23 (ii) The number of individuals who will need the particular
24 accommodation for a sincerely held religious observance or
25 practice.

26 (iii) For an employer with multiple facilities, the degree to
27 which the geographic separateness or administrative or fiscal
28 relationship of the facilities will make the accommodation more
29 difficult or expensive.

30 (c) An accommodation shall be considered to constitute an
31 undue hardship if it will result in the inability of an employee to
32 perform the essential functions of the position in which he or she is
33 employed.

34 (d) (i) The provisions of this subsection q. shall be applicable
35 only to reasonable accommodations of religious observances and
36 shall not supersede any definition of undue hardship or standards
37 for reasonable accommodation of the disabilities of employees.

38 (ii) This subsection q. shall not apply where the uniform
39 application of terms and conditions of attendance to employees is
40 essential to prevent undue hardship to the employer. The burden of
41 proof regarding the applicability of this subparagraph (d) shall be
42 upon the employer.

43 r. For any employer to take reprisals against any employee for
44 requesting from, discussing with, or disclosing to, any other
45 employee or former employee of the employer, a lawyer from
46 whom the employee seeks legal advice, or any government agency
47 information regarding the job title, occupational category, and rate
48 of compensation, including benefits, of the employee or any other

1 employee or former employee of the employer, or the gender, race,
2 ethnicity, military status, or national origin of the employee or any
3 other employee or former employee of the employer, regardless of
4 whether the request was responded to, or to require, as a condition
5 of employment, any employee or prospective employee to sign a
6 waiver, or to otherwise require an employee or prospective
7 employee to agree, not to make those requests or disclosures.
8 Nothing in this subsection shall be construed to require an
9 employee to disclose such information about the employee herself
10 to any other employee or former employee of the employer or to
11 any authorized representative of the other employee or former
12 employee.

13 s. For an employer to treat, for employment-related purposes, a
14 woman employee that the employer knows, or should know, is
15 affected by pregnancy or breastfeeding in a manner less favorable
16 than the treatment of other persons not affected by pregnancy or
17 breastfeeding but similar in their ability or inability to work. In
18 addition, an employer of an employee who is a woman affected by
19 pregnancy shall make available to the employee reasonable
20 accommodation in the workplace, such as bathroom breaks, breaks
21 for increased water intake, periodic rest, assistance with manual
22 labor, job restructuring or modified work schedules, and temporary
23 transfers to less strenuous or hazardous work, for needs related to
24 the pregnancy when the employee, based on the advice of her
25 physician, requests the accommodation, and, in the case of a
26 employee breast feeding her infant child, the accommodation shall
27 include reasonable break time each day to the employee and a
28 suitable room or other location with privacy, other than a toilet stall,
29 in close proximity to the work area for the employee to express
30 breast milk for the child, unless the employer can demonstrate that
31 providing the accommodation would be an undue hardship on the
32 business operations of the employer. The employer shall not in any
33 way penalize the employee in terms, conditions or privileges of
34 employment for requesting or using the accommodation. Workplace
35 accommodation provided pursuant to this subsection and paid or
36 unpaid leave provided to an employee affected by pregnancy or
37 breastfeeding shall not be provided in a manner less favorable than
38 accommodations or leave provided to other employees not affected
39 by pregnancy or breastfeeding but similar in their ability or inability
40 to work. This subsection shall not be construed as otherwise
41 increasing or decreasing any employee's rights under law to paid or
42 unpaid leave in connection with pregnancy or breastfeeding.

43 For the purposes of this section "pregnancy or breastfeeding"
44 means pregnancy, childbirth, and breast feeding or expressing milk
45 for breastfeeding, or medical conditions related to pregnancy,
46 childbirth, or breastfeeding, including recovery from childbirth.

47 For the purposes of this subsection, in determining whether an
48 accommodation would impose undue hardship on the operation of

1 an employer's business, the factors to be considered include: the
2 overall size of the employer's business with respect to the number
3 of employees, number and type of facilities, and size of budget; the
4 type of the employer's operations, including the composition and
5 structure of the employer's workforce; the nature and cost of the
6 accommodation needed, taking into consideration the availability of
7 tax credits, tax deductions, and outside funding; and the extent to
8 which the accommodation would involve waiver of an essential
9 requirement of a job as opposed to a tangential or non-business
10 necessity requirement.

11 t. For an employer to pay any of its employees who is a
12 member of a protected class at a rate of compensation, including
13 benefits, which is less than the rate paid by the employer to
14 employees who are not members of the protected class for
15 substantially similar work, when viewed as a composite of skill,
16 effort and responsibility. An employer who is paying a rate of
17 compensation in violation of this subsection shall not reduce the
18 rate of compensation of any employee in order to comply with this
19 subsection. An employer may pay a different rate of compensation
20 only if the employer demonstrates that the differential is made
21 pursuant to a seniority system, a merit system, or the employer
22 demonstrates:

23 (1) That the differential is based on one or more legitimate, bona
24 fide factors other than the characteristics of members of the
25 protected class, such as training, education or experience, or the
26 quantity or quality of production;

27 (2) That the factor or factors are not based on, and do not
28 perpetuate, a differential in compensation based on sex or any other
29 characteristic of members of a protected class;

30 (3) That each of the factors is applied reasonably;

31 (4) That one or more of the factors account for the entire wage
32 differential; and

33 (5) That the factors are job-related with respect to the position
34 in question and based on a legitimate business necessity. A factor
35 based on business necessity shall not apply if it is demonstrated that
36 there are alternative business practices that would serve the same
37 business purpose without producing the wage differential.

38 Comparisons of wage rates shall be based on wage rates in all of
39 an employer's operations or facilities. For the purposes of this
40 subsection, "member of a protected class" means an employee who
41 has one or more characteristics, including race, creed, color,
42 national origin, nationality, ancestry, age, marital status, civil union
43 status, domestic partnership status, affectional or sexual orientation,
44 genetic information, pregnancy, sex, gender identity or expression,
45 disability or atypical hereditary cellular or blood trait of any
46 individual, **[or]** liability for service in the armed forces, or the
47 refusal of a school library media specialist, teaching staff member,
48 librarian, or any staff member of a public library to remove library

1 material from a school library or a public library, for which
2 subsection a. of this section prohibits an employer from refusing to
3 hire or employ or barring or discharging or requiring to retire from
4 employment or discriminating against the individual in
5 compensation or in terms, conditions or privileges of employment.

6 (cf: P.L.2021, c.248, s.2)

7
8 15. This act shall take effect one year following the date of
9 enactment, but the Commissioner of Education and State Librarian
10 may take such anticipatory action as may be necessary for the
11 implementation of the act.

12 13 14 STATEMENT

15
16 This bill, entitled the "Freedom to Read Act," establishes
17 requirements for library material in public school libraries and
18 public libraries and establishes protections for school library media
19 specialists and librarians against harassment.

20 Under the bill, boards of education and governing boards of
21 public libraries are required to adopt policies on the curation of
22 library material within school libraries and public libraries.
23 "Library material" is defined under the bill to mean any material
24 including, but not limited to, nonfiction and fiction books;
25 magazines; reference books; supplementary titles; multimedia and
26 digital material; software and instructional material and other
27 material not required as part of classroom instruction, belonging to,
28 on loan to, or otherwise in the custody of a school library or public
29 library.

30 To assist boards of education in establishing a policy on the
31 library material within school libraries, the Commissioner of
32 Education is to create a model policy in consultation with the State
33 Librarian and the New Jersey Association of School Librarians.
34 The bill also requires the State Librarian to establish a model
35 policy, in consultation with the New Jersey Library Association, for
36 use and adoption by public libraries.

37 The bill further requires boards of education and governing
38 boards of public libraries to adopt policies creating a procedure
39 regarding requests for removal of library material from a school
40 library or public library. These policies are to establish a
41 mechanism to challenge a library material, create a review
42 committee, and require a written statement of reasons on the final
43 determination of the library material. The State Librarian is to
44 establish a model policy, in consultation with the New Jersey
45 Library Association, for use and adoption by public libraries.

46 The bill also requires boards of education and governing boards
47 of public libraries to include diverse and inclusive material within
48 their respective libraries. Students are to be able to reserve, check

1 out, or access any age- and grade-appropriate library material,
2 including diverse and inclusive materials. Similarly, residents are
3 to be able to reserve, check out, or access any library material,
4 including diverse and inclusive materials.

5 The bill defines “diverse and inclusive material” to mean any
6 material that reflects any protected class as enumerated in the "Law
7 Against Discrimination," (LAD); material produced by an author
8 notwithstanding the author’s membership in a protected class as
9 enumerated in the LAD; and material that contains the author's
10 points of view concerning contemporary problems and issues,
11 whether international, national or local; but excludes content that is
12 inappropriate for grades and age groups served by the school
13 library. The LAD bars discrimination on the basis of a person’s
14 race, creed, color, national origin, ancestry, age, sex, gender
15 identity or expression, affectional or sexual orientation, marital
16 status, liability for service in the Armed Forces, disability, or
17 nationality.

18 Further, this bill provides that a school library media specialist,
19 teaching staff member, librarian, or any other staff member of a
20 public library that engages in activities required under the bill is to
21 be immune from criminal and civil liability. These individuals are
22 also to have a civil cause of action for any relevant tort against any
23 person who harasses the school library media specialist, teaching
24 staff member, librarian, or any other staff member of a public
25 library for complying with the provisions of the bill. “Harassment”
26 or “harasses” is defined in the bill as a singular act that is severe or
27 pervasive, or a series of acts over any period of time directed at a
28 specific person that serves no legitimate purpose and would cause,
29 or has caused, a reasonable person to suffer emotional distress.
30 “Emotional distress” is defined as significant mental suffering or
31 distress.

32 Additionally, the bill creates an affirmative defense for a
33 prosecution for obscenity for school library media specialists,
34 teaching staff members, librarians, or any staff member of a public
35 library that are complying with the provisions of this bill.

36 Finally, this bill expands the scope of the LAD, to incorporate
37 protection against discriminatory acts against a school library media
38 specialist, teaching staff member, librarian, or any staff member of
39 a public library based upon their refusal to remove library material
40 except as permitted under the bill.

41 It is the sponsor’s intent that the Legislature protect the freedom
42 of New Jersey’s residents to read, for school libraries and public
43 libraries to acquire and maintain materials without external
44 limitations, to recognize that school library media specialists and
45 librarians are trained to curate and develop collections, and to
46 protect school library media specialists and librarians from
47 unnecessary and unwarranted harassment and defamation for
48 performance of their duties.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2421

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED SEPTEMBER 30, 2024

Sponsored by:

Senator ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Senator M. TERESA RUIZ

District 29 (Essex and Hudson)

Co-Sponsored by:

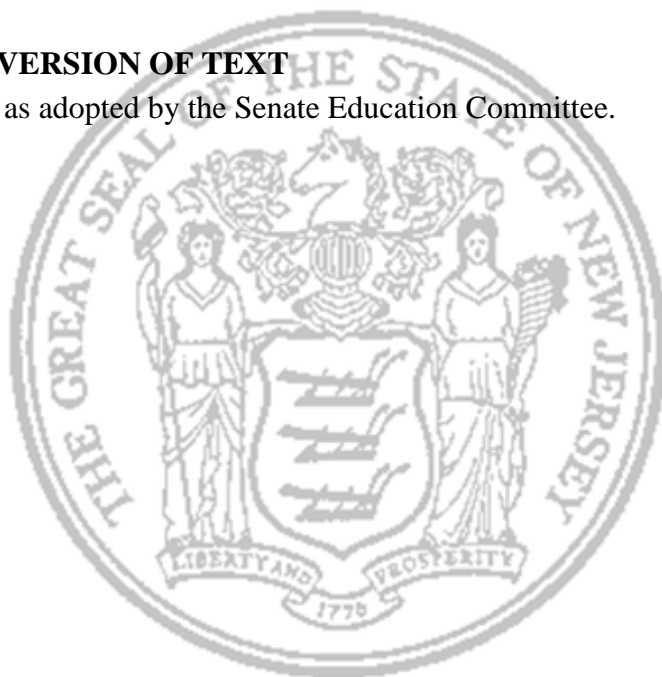
**Senators McKnight, McKeon, B.Smith, Mukherji, Stack, Burgess,
Bramnick and Timberlake**

SYNOPSIS

"Freedom to Read Act"; establishes requirements for library material in public school libraries and public libraries; protects school library staff members and librarians.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Education Committee.



(Sponsorship Updated As Of: 10/28/2024)

1 AN ACT concerning public school libraries and public libraries and
2 supplementing Title 18A of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the "Freedom to
8 Read Act."

9

10 2. The Legislature finds and declares that:

11 a. The freedom to read is a human right, constitutionally
12 protected by the First Amendment of the United States Constitution,
13 and individuals have the right to free inquiry and the right to form
14 their own opinions.

15 b. The freedom to read does not require a person to agree with
16 topics or themes within a material, but instead allows a reader to
17 explore and engage with differing perspectives to form and inform
18 their own views.

19 c. Since Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393
20 U.S. 503 (1969), it has been well established that students do not
21 "shed their constitutional rights to freedom of speech or expression
22 at the schoolhouse gate[,]" and, as such, students have a right to
23 access a diverse range of developmentally relevant information,
24 stories, perspectives, and ideas.

25 d. In Bd. of Ed. v. Pico, 457 U.S. 853 (1982), the United
26 States Supreme Court opined that "local school boards may not
27 remove books from school library shelves simply because they
28 dislike the ideas contained in those books and seek by their removal
29 to 'prescribe what shall be orthodox in politics, nationalism,
30 religion, or other matters of opinion.'"

31 e. School libraries and public libraries, as centers for voluntary
32 inquiry, play a unique role in promoting intellectual freedom,
33 providing equitable access to learning resources, and promoting
34 democracy by providing service to all regardless of race, ethnicity,
35 creed, age, ability, gender, or socio-economic status.

36 f. School library staff members and librarians are essential
37 members of the community; as trained professionals, they help
38 young people of all backgrounds find and interpret the information
39 they need to succeed in school and prepare for college, careers, and
40 life.

41 g. School library staff members and librarians receive
42 extensive professional training that prepares them to develop and
43 curate collections designed to meet the broad and varied interests
44 and needs of their communities and students, which is based on a
45 variety of factors, including pedagogical value, student interest, and
46 the appropriateness of the material.

47 h. Despite this, school library staff members and librarians
48 have been targeted and harassed for providing young people access
49 to library material.

1 i. Therefore, it is necessary and proper for the Legislature to
2 protect the freedom of New Jersey’s residents to read, for school
3 libraries and public libraries to acquire and maintain materials
4 without external limitations, to recognize that school library staff
5 members and librarians are trained to curate and develop
6 collections, and to ensure school library staff members and
7 librarians are able to perform their duties.

8
9 3. As used in sections 4 through 7 of this act:

10 “Board of education” means a board of education as defined in
11 N.J.S.18A:18A-2, the board of directors of an educational services
12 commission, a board of trustees of a charter school, a board of
13 trustees of a renaissance school project, or any other local education
14 agency.

15 “Censorship” means to block, suppress, or remove library
16 material based on disagreement with a viewpoint, idea, or concept,
17 or solely because an individual finds certain content offensive, but
18 does not include limiting or restricting access to any library
19 material deemed developmentally inappropriate for certain students.

20 “Diverse and inclusive material” means any material that reflects
21 any protected class as enumerated in the "Law Against
22 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.); material
23 produced by an author who is a member of a protected class as
24 enumerated in the "Law Against Discrimination," P.L.1945, c.169
25 (C.10:5-1 et seq.); and material that contains the author's points of
26 view concerning contemporary problems and issues, whether
27 international, national, or local; but excludes content that is
28 inappropriate for grades served by the school library.

29 “Individual with a vested interest” means any teaching staff
30 member employed by the board of education, any parent or
31 guardian of a student enrolled in the school district at the time the
32 removal form required pursuant to section 5 of this act is filed, and
33 any student enrolled in the district at the time the removal form
34 required pursuant to section 5 of this act is filed.

35 “Library material” means any material including, but not limited
36 to, nonfiction and fiction books; magazines; reference books;
37 supplementary titles; multimedia and digital material; software and
38 instructional material and other material not required as part of
39 classroom instruction, belonging to, on loan to, or otherwise in the
40 custody of a school library.

41 “School library staff member” means a school library media
42 specialist, school librarian, any certificated or non-certificated staff
43 member assigned to duties in a school library, or any individual
44 carrying out or assisting with the functions of a school library
45 media specialist or school librarian.

46
47 4. a. A board of education shall adopt a policy on the curation
48 of library material within a school library. The purpose of the
49 curation policy is to: provide standards for the curation of library

1 material; establish criteria for the removal of existing school library
2 material or library material selected for inclusion in the school library;
3 and provide protection against attempts to censor library material.

4 b. When developing the policy, the board shall review the
5 model policy established by the Commissioner of Education
6 pursuant to subsection d. of this section. The board shall have
7 control over the content of the policy, except that the policy shall, at
8 a minimum:

9 (1) recognize that library material should be provided for the
10 interest, information, and enlightenment of all students and should
11 present diverse points of view in the collection as a whole;

12 (2) acknowledge that library material shall not be removed from
13 a school library because of the origin, background, or views of the
14 library material or those contributing to its creation;

15 (3) recognize the importance of school libraries as centers for
16 voluntary inquiry and the dissemination of information and ideas;

17 (4) promote the free expression and free access to ideas by
18 students by prohibiting the censorship of library material;

19 (5) acknowledge that a school library media specialist is
20 professionally trained to curate and develop the school library
21 collection that provides students with access to the widest array of
22 developmentally appropriate library material available to schools;
23 and

24 (6) establish a procedure for a school library staff member to
25 review library material within a school library on an ongoing basis,
26 which shall include, but not be limited to: the library material's
27 relevance; the condition of the library material; the availability of
28 duplicates; the availability of more recent developmentally
29 appropriate material; and the continued demand for the library
30 material.

31 c. In the event a board of education has a policy that complies
32 with the requirements of subsection b. of this section as of the
33 effective date of this act, the board shall not be required to take
34 further action.

35 d. To assist boards of education in developing a policy on the
36 curation of library material within a school library, the
37 commissioner shall develop a model policy. In developing the
38 model policy, the commissioner shall consult with the State
39 Librarian, the New Jersey Association of School Librarians, and the
40 New Jersey School Boards Association. The model policy shall be
41 updated as the commissioner deems necessary.

42 e. A board of education, in consultation with school library
43 staff members, shall have discretion in selecting, purchasing, or
44 acquiring library material for inclusion in the school library.
45 Nothing in this section shall be construed to require a board of
46 education to purchase, or otherwise acquire, library material for a
47 school library.

1 f. Nothing in this section shall be construed to restrict a board
2 of education's authority to select textbooks and school supplies
3 related to the curriculum.

4

5 5. a. A board of education shall adopt a policy establishing a
6 procedure regarding a request for removal of library material within
7 a school library. When developing the policy, the board shall
8 review the model policy established by the Commissioner of
9 Education pursuant to subsection d. of this section.

10 b. The board shall have control over the policy, except that the
11 policy shall, at a minimum:

12 (1) provide for the creation of a request for removal form, based
13 on the model removal form developed by the commissioner
14 pursuant to subsection d. of this section, that may be submitted by
15 an individual with a vested interest to the principal of the school in
16 which the library material is challenged to initiate a review of the
17 material. The form shall require the individual with the vested
18 interest to specify which sections of the library material the
19 individual objects to and an explanation of the reasons for the
20 objection;

21 (2) require the principal or principal's designee to promptly
22 forward the request for removal to the superintendent of the school
23 district. The superintendent or the superintendent's designee shall
24 appoint a review committee, consisting of:

25 (a) the superintendent or the superintendent's designee;

26 (b) the principal of the school in which the library material is
27 challenged or the principal's designee;

28 (c) the school library media specialist or a school library staff
29 member;

30 (d) a representative selected by the board of education;

31 (e) at least one grade-appropriate teacher familiar with the
32 library material, provided the teacher selected is not the individual
33 who submitted the form;

34 (f) a parent or guardian of a student enrolled in the school
35 district, provided the parent or guardian selected is not the
36 individual who submitted the form;

37 (g) if appropriate, and at the discretion of the superintendent, in
38 cases where a student enrolled in the district in grades nine through
39 12 filed the removal form, a student enrolled in the district in grades
40 nine through 12 may volunteer to serve on the review committee, if
41 that student did not file the removal form. The superintendent shall
42 consult with the principal of the school involved in the removal
43 request in making this determination; and

44 (h) any additional members the superintendent deems necessary;

45 (3) require that a challenged library material remain within the
46 school library and available for a student to reserve, check out, or
47 access until there is a final decision reached by the board of
48 education pursuant to paragraph (5) of this subsection;

1 (4) require the review committee to evaluate the request for
2 removal form, review the challenged library material, and report in
3 writing its recommendations on whether to remove the library
4 material to the board of education no later than 60 school days from
5 the date of the next regularly scheduled board of education meeting
6 after receipt of the form. A copy of the committee's report shall
7 also be provided to the individual with a vested interest who filed
8 the form and the principal;

9 (5) require the board of education to review the committee's
10 report and make a final determination on whether the library
11 material is to be removed from the school library, or limited in use.
12 The board shall provide a written statement of reasons for:

13 (a) the removal, limitation, or non-removal of a library material;
14 and

15 (b) any final determination that is contrary to the
16 recommendations of the review committee.

17 The written statement of reasons shall be posted on the board's
18 Internet website in a prominent and easily accessible location
19 within 30 days of the determination.

20 (6) provide that a library material that has been challenged
21 pursuant to paragraphs (1) through (5) of this subsection shall not
22 be subject to a subsequent challenge for at least one year; and

23 (7) permit a school district to consolidate requests for removal of
24 the same challenged library material.

25 c. If a board of education has a policy that complies with the
26 requirements of subsection b. of this section as of the effective date
27 of this act, the board shall not be required to take further action.

28 d. To assist boards of education in developing a policy on the
29 procedure regarding a request for removal of library material within
30 a school library, the commissioner shall develop a model policy and
31 model removal form. In developing the model policy and model
32 removal form, the commissioner shall consult with the State
33 Librarian, the New Jersey Association of School Librarians, and the
34 New Jersey School Boards Association. The model policy and
35 model removal form shall be updated as the commissioner deems
36 necessary.

37 e. A board of education determination issued in accordance
38 with the policy established in subsection b. of this section which
39 denies a request for removal shall not constitute a controversy or
40 dispute pursuant to N.J.S.18A:6-9.

41 f. An individual with a vested interest may file a petition of
42 appeal of the board's final determination to the commissioner
43 through the Office of Controversies and Disputes in accordance
44 with N.J.S.18A:6-9 and the procedures set forth in State Board of
45 Education regulations.

46 g. Nothing in this section shall be construed as creating a
47 separate legal cause of action regarding any determination issued
48 pursuant to the policy established pursuant to subsection a. of this
49 section.

1 6. a. A board of education shall not remove library material
2 from a school library in the district because of the origin,
3 background, or views of the library material or those contributing to
4 its creation, and shall not engage in censorship of library material.

5 b. A board of education shall allow a student to reserve or check
6 out any developmentally appropriate library material, including
7 diverse and inclusive material.

8

9 7. A school library staff member who engages in activities as
10 required by sections 4 through 6 of this act shall be immune from
11 civil and criminal liability arising from good faith actions
12 performed pursuant to the provisions of those sections.

13

14 8. As used in sections 9 through 12 of this act:

15 “Censorship” means to block, suppress, or remove library
16 material based on disagreement with a viewpoint, idea, or concept,
17 or solely because an individual finds certain content offensive, but
18 does not include limiting or restricting access to any library
19 material deemed developmentally inappropriate for certain age
20 groups.

21 “Diverse and inclusive material” means material that reflects any
22 protected class as enumerated in the "Law Against Discrimination,"
23 P.L.1945, c.169 (C.10:5-1 et seq.); material produced by an author
24 who is a member of a protected class as enumerated in the "Law
25 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.); and
26 material that contains the author's points of view concerning
27 contemporary problems and issues, whether international, national
28 or local.

29 “Governing body” means a board of trustees, director or other
30 chief administrative officer, a county library commission, or board
31 of county commissioners of a public library.

32 “Individual with a vested interest” means any resident who is
33 served by the public library or resides in a county or municipality
34 where the library is situated.

35 “Library material” means any material including, but not limited
36 to, nonfiction and fiction books; magazines; reference books;
37 supplementary titles; multimedia and digital material; software and
38 instructional material, belonging to, on loan to, or otherwise in the
39 custody of a public library.

40 “Public library” means a library that serves, free of charge, all
41 residents of an area as established pursuant to chapter 33 or chapter
42 54 of Title 40 of the Revised Statutes, and receives financial
43 support, in whole or in part, from public funds; or a library
44 established pursuant to N.J.S.15A:1-1 et seq. and receiving public
45 funds pursuant to R.S.40:54-35.

46

47 9. a. In addition to the duties prescribed in section 18 of
48 P.L.1969, c.158 (C.18A:73-33), the State Librarian, in consultation
49 with the New Jersey Library Association, shall establish a model

1 policy on the curation of library material within a public library.
2 The purpose of the curation policy is to: provide standards for the
3 curation of library material; establish criteria for the removal of
4 existing library material or library material selected for inclusion in the
5 public library; and provide protection against attempts to censor
6 library material.

7 b. The model policy shall, at a minimum:

8 (1) recognize that public libraries serve as centers for voluntary
9 inquiry and the dissemination of information and ideas;

10 (2) promote the free expression and free access to ideas by
11 residents by prohibiting the censorship of library material;

12 (3) acknowledge that library material shall not be removed from
13 a public library because of the origin, background, or views of the
14 library material or those contributing to its creation;

15 (4) recognize that library material should be provided for the
16 interest, information, and enlightenment of all people, and should
17 present diverse points of view in the collection as a whole;

18 (5) acknowledge that a librarian is professionally trained to
19 curate and develop collections that provide residents with access to
20 the widest array of library material available to the public library;
21 and

22 (6) establish a procedure for a librarian to review library material
23 within a public library on an ongoing basis, which shall include, but
24 not be limited to: the library material's relevance; the condition of
25 the library material; the availability of duplicates; the availability of
26 more recent material; and the continued demand for the library
27 material.

28 c. The model policy shall be updated as the State Librarian and
29 New Jersey Library Association deem necessary.

30 d. A governing body of a public library shall adopt the model
31 policy established pursuant to this section. If a public library has a
32 policy that complies with the requirements of subsection b. of this
33 section as of the effective date of this act, the library shall not be
34 required to take further action.

35 e. The governing body of a public library, in consultation with
36 staff members of a public library, including a librarian employed by
37 a public library, shall have discretion in selecting, purchasing, or
38 acquiring library material for inclusion in the public library.
39 Nothing in this section shall be construed to require a governing body
40 of a public library to purchase, or otherwise acquire, library material
41 for a public library.

42
43 10. a. In addition to the duties prescribed in section 18 of
44 P.L.1969, c.158 (C.18A:73-33), the State Librarian, in consultation
45 with the New Jersey Library Association, shall establish a model
46 policy creating a procedure regarding a request for removal of
47 library material within a public library.

48 b. The model policy shall, at a minimum, require:

- 1 (1) the creation of a request for removal form, based on the
2 model removal form established by the State Librarian, that may be
3 submitted by an individual with a vested interest to the governing
4 body of the public library in which the library material is
5 challenged to initiate a review of the material. The form shall
6 require the individual with the vested interest to specify which
7 sections of the library material the individual objects to and an
8 explanation of the reasons for the objection;
- 9 (2) the governing body appoint a review committee, consisting
10 of:
- 11 (a) at least one member of the governing body;
 - 12 (b) a librarian employed by the public library;
 - 13 (c) a staff member, who is not a librarian, of the public library
14 that is familiar with the library material;
 - 15 (d) a representative selected by the governing body;
 - 16 (e) a resident serviced by the public library, provided the
17 resident selected is not the individual who submitted the form; and
 - 18 (f) any additional members the governing body deems
19 necessary;
- 20 (3) a challenged library material remain within the public library
21 and available for a resident to reserve, check out, or access until
22 there is a final decision by the review committee;
- 23 (4) the review committee to evaluate the request for removal
24 form, review the challenged library material, and report in writing
25 its recommendations to the governing body on whether to remove
26 the library material within 30 business days from the date of
27 receiving the form. A copy of the committee's report shall also be
28 provided to the individual with a vested interest who filed the form;
29 and
- 30 (5) require the governing body to review the committee's report
31 and make a final determination on whether the library material is to
32 be removed from the public library, or limited in use. The
33 governing body shall provide a written statement of reasons for:
- 34 (a) the removal, limitation, or non-removal of a library material;
35 and
 - 36 (b) any final determination that is contrary to the
37 recommendations of the review committee; and
- 38 (6) provide that a library material that has been challenged
39 pursuant to paragraphs (1) through (5) of this subsection shall not
40 be subject to a subsequent challenge for at least one year.
- 41 c. The model policy shall be updated as the State Librarian and
42 New Jersey Library Association deem necessary.
 - 43 d. A governing body of a public library shall adopt the model
44 policy established pursuant to this section. In the event a public
45 library has a policy that complies with the requirements of
46 subsection b. of this section as of the effective date of this act, the
47 library shall not be required to take further action.

1 e. A governing body determination issued in accordance with the
2 policy established in subsection b. of this section shall be final and
3 binding for a period of five years.

4 f. Nothing in this section shall be construed as creating a separate
5 legal cause of action regarding any determination issued pursuant to
6 the policy established pursuant to subsection b. of this section.

7
8 11. a. A governing body of a public library shall not remove
9 library material from a public library because of the origin,
10 background, or views of the library material or those contributing to
11 its creation, and shall not engage in censorship of library material.

12 b. The governing body of a public library shall allow a resident
13 to reserve or check out any library material, including diverse and
14 inclusive material.

15
16 12. Any staff member of a public library, including a librarian
17 employed by a public library, shall be immune from civil and
18 criminal liability arising from good faith actions performed
19 pursuant to the provisions of sections 9 through 11 of this act.

20
21 13. This act shall take effect one year next following the date of
22 enactment, but the Commissioner of Education and State Librarian
23 may take such anticipatory action as may be necessary for the
24 implementation of the act.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 2421

STATE OF NEW JERSEY

DATED: SEPTEMBER 30, 2024

The Senate Education Committee favorably reports a Senate Committee Substitute for Senate Bill No. 2421.

This committee substitute, entitled the "Freedom to Read Act," establishes requirements for library material in public school libraries and public libraries and establishes protections for school library staff members and librarians.

Under the committee substitute, boards of education and governing boards of public libraries are required to adopt policies on the curation of library material within school libraries and public libraries as required in the substitute. To assist boards of education in establishing a policy on the library material within school libraries, the Commissioner of Education is to create a model policy in consultation with the State Librarian, the New Jersey Association of School Librarians, and the New Jersey School Boards Association. The committee substitute also requires the State Librarian to establish a model policy, in consultation with the New Jersey Library Association, for use and adoption by public libraries.

The committee substitute further requires boards of education and governing boards of public libraries to adopt policies creating a procedure regarding requests for removal of library material from a school library or public library. These policies are to, among other requirements, establish a mechanism to challenge a library material, create a review committee, and require a written statement of reasons on the final determination of the library material.

Boards of education and governing boards of public libraries are not to exclude library material from the library because of the origin, background, or views of the library material or those contributing to its creation. Boards of education and governing boards of public libraries are not permitted to engage in censorship. Students and residents are to be able to reserve or check out any developmentally appropriate library material, including diverse and inclusive material.

Further, this committee substitute provides that a school library staff member, librarian, and any staff member of a public library is to be immune from civil and criminal liability for good faith actions in complying with the requirements of the substitute.

“Library material” is defined in the committee substitute as any material, including nonfiction and fiction books; magazines; reference books; supplementary titles; multimedia and digital material; software and instructional material and other material not required as part of classroom instruction, belonging to, on loan to, or otherwise in the custody of a school library or public library.

The committee substitute defines “diverse and inclusive material” to mean any material that reflects any protected class as enumerated in the "Law Against Discrimination" (LAD); material produced by an author notwithstanding the author’s membership in a protected class as enumerated in the LAD; and material that contains the author's points of view concerning contemporary problems and issues, whether international, national or local; but excludes content that is inappropriate for grades served by the school library. The LAD bars discrimination on the basis of a person’s race, creed, color, national origin, ancestry, age, sex, gender identity or expression, affectional or sexual orientation, marital status, liability for service in the Armed Forces, disability, or nationality.

“Censorship” is defined in the committee substitute as to block or suppress library material based on disagreement with a viewpoint, idea, or concept, or solely because an individual finds certain content offensive, but does not include limiting or restricting access to any library material deemed developmentally inappropriate for certain age groups.

As reported by the committee, the committee substitute for Senate Bill No. 2421 is identical to the Assembly Committee Substitute for Assembly Bill No. 3446, which was also reported by the committee on this date.