

**SUBSTITUTE FOR
HOUSE BILL NO. 6035**

A bill to create standards and processes for the selection of materials for inclusion in or withdrawal from a district library's collection; to provide for the powers and duties of certain state and local governmental officers and entities; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 Sec. 2. As used in this act:

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

1 (b) "District library" means a district library established
2 under the district library establishment act, 1989 PA 24, MCL
3 397.171 to 397.196. District library does not include a special
4 library, including, but not limited to, a professional or technical
5 library or school library.

6 (c) "Legal service area" means the district of a district
7 library.

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

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

15 (ii) An item available through interlibrary loan.

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

18 (iv) A label placed on materials.

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

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

23 (e) "Request for reconsideration" means a request to remove
24 material from a district library's collection other than through
25 the withdrawal process.

26 (f) "Selection" means the process by which a district library
27 determines which items to include within the district library's
28 collection, through purchase, donation, or other means.

29 (g) "Unusual circumstances" means 1 or more of the following,

1 but only to the extent necessary for the proper processing of a
2 request for reconsideration:

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

6 (ii) The need to provide sufficient time for an individual
7 responsible for reviewing or deciding the request for
8 reconsideration to review the material.

9 (iii) The need to schedule a district library board meeting to
10 address a request for reconsideration.

11 (h) "Withdrawal" means the routine or periodic removal of
12 materials from a district library's collection for reasons stated
13 in the district library's policy.

14 Sec. 3. (1) Subject to section 4, and except as otherwise
15 provided by law, the director or, if there is no director, the
16 chief executive employee working at the district library, has the
17 final responsibility for the selection of materials for inclusion
18 or withdrawal in a district library's collection. The director or
19 chief executive employee may designate another individual to act on
20 the director's or chief executive employee's behalf to assist with
21 selection or withdrawal.

22 (2) By not later than 90 days after the effective date of this
23 act, if a district library does not have a policy in effect that
24 complies with this act, a district library must adopt a policy or
25 amend an existing policy that identifies, at a minimum, all of the
26 following:

27 (a) Standards for selection of material for the district
28 library's collection.

29 (b) Standards for the withdrawal of material from the district

1 library's collection.

2 (c) A process for a request for reconsideration of the
3 inclusion of material in the district library's collection.

4 (d) Conditions that must be met before the district library
5 will review a request for reconsideration, which may include any of
6 the following:

7 (i) The reason for the request for reconsideration of the
8 district library's material. A reason that is not in compliance
9 with this act must not be considered by the district library.

10 (ii) That the individual making the request for reconsideration
11 certifies that the requester has read the entire material before
12 filing the request for reconsideration. If the request for
13 reconsideration involves a program, the request for reconsideration
14 must certify that the requester has attended the program or read
15 the description of the program. If the request for reconsideration
16 involves audio or video material, the request for reconsideration
17 must certify that the requester has listened to or viewed the
18 entire audio or video material.

19 (iii) A request for reconsideration of material may be made only
20 by a resident of the district library's legal service area or
21 contracted service area.

22 (iv) If a request for reconsideration of a material has been
23 determined by the district library, the district library shall not
24 consider a request for reconsideration of that same material within
25 365 days after that determination.

26 (v) Under unusual circumstances, that the district library may
27 extend the period during which the district library must respond to
28 the request for reconsideration.

29 (vi) Any other lawful requirement.

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

3 Sec. 4. (1) A request for reconsideration may be made to a
4 district library only for material owned or controlled by that
5 district library.

6 (2) A reason or basis for a request for reconsideration cannot
7 be made based on the religion, race, color, national origin, age,
8 sex, sexual orientation, gender identity or expression, height,
9 weight, familial status, or marital status of the author or because
10 the subject matter, content, or viewpoint of the material involves
11 religion, race, color, national origin, age, sex, sexual
12 orientation, gender identity or expression, height, weight,
13 familial status, or marital status.

14 (3) A district library shall not grant a request for
15 reconsideration based on the subject matter, content, or viewpoint
16 of material, unless the material has been adjudicated to be obscene
17 or otherwise unprotected by the First Amendment of the Constitution
18 of the United States or by section 5 of article I of the state
19 constitution of 1963, as determined by a court of competent
20 jurisdiction over the community in which the district library
21 serves.

22 Sec. 5. (1) The attorney general may, on behalf of the Library
23 of Michigan, commence a civil action seeking a mandamus or other
24 action to compel the district library to adopt a policy in
25 compliance with this act.

26 (2) The attorney general, a resident of the district library's
27 legal service area, or a resident of the district library's
28 contracted service area may commence a civil action for any of the
29 following:

1 (a) A temporary or permanent injunction to prevent the
2 district library from unlawful removal of material in violation of
3 this act.

4 (b) A mandamus or other action to compel the district library
5 to return material to the collection that is removed in violation
6 of this act.

7 Enacting section 1. This act does not take effect unless House
8 Bill No. 6034 of the 102nd Legislature is enacted into law.