

SENATE No. 2839

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

SENATE, July 3, 2024.

The committee on Tourism, Arts and Cultural Development, to whom were referred ; the petitions (accompanied by bill, Senate, No. 2447) of Jacob R. Oliveira, Aaron L. Saunders, Jessica Ann Giannino, Sal N. DiDomenico and other members of the General Court for legislation to protect against attempts to ban, remove, or restrict library access to materials; (accompanied by bill, Senate, No. 2528) of Julian Cyr, Natalie M. Higgins, John Francis Moran, Rebecca L. Rausch and other members of the General Court for legislation relative to free expression;(accompanied by bill, House, No. 4005) of James K. Hawkins and others for legislation to encourage the improvement of free libraries and library systems; (accompanied by bill, House, No. 4229) of John Francis Moran and others relative to the right of students to freedom of expression in public schools; and (accompanied by bill, House, No. 4235) of Aaron L. Saunders and others for legislation to further regulate access to certain library materials; report the accompanying bill (Senate, No. 2839)

For the committee,
Paul W. Mark

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**In the One Hundred and Ninety-Third General Court
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An Act to ensure access to library resources and services.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The general court finds and declares that:

2 (i) attempts to ban, remove or otherwise restrict access to books or other materials in
3 public libraries and school libraries of the commonwealth undermines the public good and
4 restrict academic growth;

5 (ii) librarians should be protected from personal attacks and threats directed at them due
6 to work performed in good faith within their role and position;

7 (iii) library materials should not be proscribed or removed because of personal, political
8 or doctrinal views, and materials should not be excluded because of the origin, background or
9 views of those contributing to their creation; and

10 (iv) access to state-funded shared library resources requires public libraries to be in
11 compliance with the General Laws.

12 SECTION 2. Section 82 of chapter 71 of the General Laws, as appearing in the 2022
13 Official Edition, is hereby amended by striking out, in lines 4 to 11, inclusive, the words
14 “Freedom of expression shall include without limitation, the rights and responsibilities of
15 students, collectively and individually, (a) to express their views through speech and symbols,
16 (b) to write, publish and disseminate their views, (c) to assemble peaceably on school property
17 for the purpose of expressing their opinions. Any assembly planned by students during regularly
18 scheduled school hours shall be held only at a time and place approved in advance by the school
19 principal or his designee.” and inserting in place thereof the following sentence:- Freedom of
20 expression shall include, without limitation, the rights and responsibilities of students,
21 collectively and individually, to: (a) express their views through speech and symbols; (b) write,
22 publish and disseminate their views; (c) assemble peaceably on school property for the purpose
23 of expressing their opinions; provided, that assembly planned by students during regularly
24 scheduled school hours shall be held only at a time and place approved in advance by the school
25 principal or their designee; and (d) receive information, including through materials determined
26 to be educational and age-appropriate for inclusion in a school library by the school library
27 teacher in the district licensed by the department, or in the absence of such a school library
28 teacher, the school official responsible for the selection of library materials and the use of school
29 library materials and facilities.

30 SECTION 3. Said chapter 71 is hereby further amended by inserting after said section 82
31 the following 4 sections: -

32 Section 82A. Any determination by a school library teacher licensed by the department,
33 or in the absence of such school library teacher by the school employee responsible for the
34 selection and display of library materials, that materials are appropriate for inclusion in a school

35 library shall: (i) be age appropriate; (ii) serve an educational purpose; and (iii) be based on their
36 professional training and not on personal, political or doctrinal views.

37 Section 82B. The school committee or other administrative authority of a school library
38 shall establish a written policy for: (i) the selection of school library materials, including
39 textbooks, instructional materials, curricula, books or other library resources; and (ii) the use of
40 library materials and library facilities. The written policy shall be in accordance with standards
41 adopted by the American library association. This written policy shall be filed annually with the
42 department. This policy shall include responding to attempts to remove or restrict library
43 materials, based upon the objections of a person or group. The board of library commissioners
44 through its affiliate the Massachusetts Library System shall make sample policies available.

45 The written policy pursuant to section 82B shall include a process for responding to
46 complaints and challenges and other attempts to remove or restrict library materials based upon
47 the objections of a person or group. The policy shall provide that if a material is the subject of a
48 complaint or attempt to remove or restrict its use, it shall remain on the shelves pending a vote of
49 the school committee during the process for responding to challenges; provided, that the
50 challenged material was selected for inclusion in the school library by a school library teacher
51 licensed by the department, or in the absence of a school library teacher, by the school official
52 responsible for the selection of library materials. Districts shall include information on book
53 challenges annually to the department.

54 Section 82C. (a) The selection of materials for inclusion in a collection shall not be
55 overruled except upon a determination and vote by the school committee, after notice and public
56 hearing and recommendation by a review committee of school personnel, appointed by the

57 school committee, and the superintendent, that, based on clear and convincing evidence, the
58 material is devoid of any educational, literary, artistic, personal or social value or is not age
59 appropriate for any child who attends the school.

60 (b) A decision of the school committee to remove materials from a school library may be
61 challenged by any student, parent or guardian pursuant to section 5 of chapter 249, including on
62 the grounds that the decision was not supported by clear and convincing evidence.

63 (c) Nothing in this section precludes personnel responsible for school library content
64 from deciding to remove materials that have become outdated or to accommodate new materials;
65 provided, that the decision is not made based on personal, political or doctrinal views.

66 Section 82D. No employee shall lose their librarian licensure or certification or be
67 dismissed, disciplined, placed on probation, involuntarily transferred, fined or imprisoned for the
68 selection of library materials when the selection is made in good faith and in accordance with the
69 approved policy adopted pursuant to section 82B.

70 SECTION 4. Section 10 of chapter 78 of the General Laws, as appearing in the 2022
71 Official Edition, is hereby amended by striking out, in line 8, the words “, male or female,”.

72 SECTION 5. Said section 10 of said chapter 78, as so appearing, is hereby further
73 amended by striking out, in line 13, the word “chairman” and inserting in place thereof the
74 following word:- chair.

75 SECTION 6. Section 14 of said chapter 78, as so appearing, is hereby amended by
76 striking out, in line 5, the word “his” and inserting in place thereof the following words:- the
77 member’s.

78 SECTION 7. Said section 14 of said chapter 78, as so appearing, is hereby further
79 amended by striking out, in line 13, the word “chairman” and inserting in place thereof the
80 following word:- chair.

81 SECTION 8. Said section 14 of said chapter 78, as so appearing, is hereby further
82 amended by striking out, in lines 18 and 21, the word “his” and inserting in place thereof, in each
83 instance, the following word:- their.

84 SECTION 9. Said section 14 of said chapter 78, as so appearing, is hereby further
85 amended by striking out, in line 19, the word “him” and inserting in place thereof the following
86 words:- the director.

87 SECTION 10. Said section 14 of said chapter 78, as so appearing, is hereby further
88 amended by striking out, in line 22, the word “him” and inserting in place thereof the following
89 words:- the deputy director.

90 SECTION 11. Section 15 of said chapter 78, as so appearing, is hereby amended by
91 adding the following 2 paragraphs:-

92 The board of library commissioners shall make resources available to assist the board of
93 trustees, or other administrative authority of a free municipal public library, to create or modify
94 written policies for: (i) the selection of library material; (ii) the development of their library
95 collections; (iii) the use of materials and facilities; and (iv) the process to respond to book
96 challenges, in accordance with the standards adopted by the American Library Association and
97 as required by section 19B.

98 The board of library commissioners through its affiliate the Massachusetts Library
99 System shall make resources available to help any school committee or other administrative
100 authority of a school library create or modify written policies for the selection of library
101 materials and the use of materials and facilities in accordance with the standards adopted by the
102 American Library Association.

103 SECTION 12. Section 19B of said chapter 78, as so appearing, is hereby amended by
104 striking clause (7) and inserting in place thereof the following 2 clauses:-

105 (7) include in their annual report the total number of nonresident loans and nonresident
106 circulation as a percentage of the library's total circulation, as certified by the librarian and
107 subject to an audit by the state auditor, and

108 (8) adopt and make public a written policy for the selection and use of library materials
109 and facilities in accordance with section 33; provided, that such policy shall incorporate the
110 American Library Association's Library Bill of Rights and state that materials should not be
111 selected, proscribed or removed because of personal, political or doctrinal disapproval or bias.

112 SECTION 13. Section 33 of said chapter 78, as so appearing, is hereby amended by
113 inserting after the word "establish", in line 3, the following words:- and implement.

114 SECTION 14. Said section 33 of said chapter 78, as so appearing, is hereby further
115 amended by inserting after the word "Association", in line 6, the following words:- including,
116 but not limited to, its Library Bill of Rights;

117 SECTION 14A. Said section 33 of said chapter 78, as so appearing, is hereby further
118 amended by striking the words "be dismissed", in line 6, and inserting in place thereof the

119 following words:- lose librarian licensure or certification or be dismissed, disciplined, placed on
120 probation, involuntarily transferred, fined or imprisoned.

121 SECTION 15. Said chapter 78 is hereby further amended by adding the following
122 section:-

123 Section 35. Annually, not later than September 1, the board of library commissioners
124 shall submit to the clerks of the house of representatives and senate, the joint committee on
125 tourism, arts and cultural development, the joint committee on education, the joint committee on
126 municipalities and regional government and the house and senate committees on ways and
127 means a report on book challenges in the commonwealth and its impact on communities. This
128 report shall include information on settings of book challenges (municipal library or school
129 library), the title and author of specific challenges, the municipalities in which the challenges
130 occurred and the outcomes of such challenges. This report may also include recommendations to
131 support programming that expands access to library materials.