

ONE HUNDRED EIGHTH LEGISLATURE - SECOND SESSION - 2024
COMMITTEE STATEMENT
LB441

Hearing Date: Friday March 24, 2023
Committee On: Judiciary
Introducer: Albrecht
One Liner: Change provisions relating to obscenity

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	5	Senators Bosn, DeKay, Holdcroft, Ibach, Wayne
Nay:		
Absent:		
Present Not Voting:	3	Senators Blood, DeBoer, McKinney

Testimony:

Proponents:

Senator Joni Albrecht
Matt Heffron
Sue Greenwald
Angie Eberspacher
Patrick Peterson
Denise Bradshaw
Marilyn Asher
Marni Hodgen
Scott Bush
Kathy Nelson
Allie French
Darcy Svoboda
Heather Hall
Brooke Ritter
Linda Vermooten
Diane Cahill
Stephanie Johnson
Jeanne Greise
Adam Gotschall
Amber Parker

Representing:

Opening Presenter
Thomas More Society
Self
Self
Nebraska Freedom Coalition
Self
Nebraskans for Founders Value
Self
Self
Self
Nebraskans Against Government Overreach
Self
Self
Self
Moms for Liberty
Self
Nebraskans for Founders Value
Self
Self

Opponents:

Josephine (Vincent) Litwinowicz
Charles Yale
Stacy Johnson

Representing:

Higher Power Church
Self
Nebraska State Education Association | Stand for Schools



Noemi Gilbert	Self
Jane Seu	American Civil Liberties Union of Nebraska
Halley Taylor	Self
Jayden Speed	Self
Aaron Ross	Self
Grace Jacobson	Self
Erin Feichtinger	Women's Fund of Omaha
Kimberly Metzger	Self
Wyatt Packard	Nebraska Library Association
Marrienne Williams	Self
Holli Duggan	Nebraska School Library Association
Garren Hochsteller	Self
Vicki Wood	Academic Freedom Coalition of Nebraska
Rod Wagner	Nebraska Library Commission

Neutral:

Representing:

* ADA Accommodation Written Testimony

Summary of purpose and/or changes:

Under section 28-813, it is a Class I misdemeanor (up to 1 year in jail) to prepare, distribute, order, produce, exhibit, or promote obscene material or possess such material with the intent to do so.

The term “obscene” is defined in section 28-807(10) to “mean (a) that an average person applying contemporary community standards would find that the work, material, conduct, or live performance taken as a whole predominantly appeals to the prurient interest or a shameful or morbid interest in nudity, sex, or excretion, (b) the work, material, conduct, or live performance depicts or describes in a patently offensive way sexual conduct specifically set out in sections 28-807 to 28-829, and (c) the work, conduct, material, or live performance taken as a whole lacks serious literary, artistic, political, or scientific value”.

Section 28-815 provides defenses to prosecution under section 28-813 for teaching in established educational institutions, galleries, or libraries, practicing medicine, artists, relevant references to nudity, sex, or excretion in various societal contexts, and news media.

LB441 would amend section 28-815 to change this defense to exclude people teaching in non-postsecondary educational institutions and people teaching in a gallery or library not connected to a postsecondary educational institution. The bill would also exclude from the defense relevant references to, accounts, or portrayal of nudity, sex, or excretion in the context of non-postsecondary education and public libraries.

Explanation of amendments:

The criminal offense for providing obscene material to a minor is contained in section 28-808. The criminal offense for presenting obscene material to a minor is contained in section 28-809. The defense to these offenses is contained in section 28-810. To qualify for this defense, a defendant must show their activity falls within 28-815 and the minor was accompanied by a parent or guardian or the minor exhibited an official document purporting to establish the minor was eighteen years of age or more.

AM2789 would remove the duplicative language in subsection (c) and clarify that both the requirements of 28-815 and being accompanied by a parent or guardian are required.



Justin Wayne, Chairperson

