SENATE, No. 2421
STATE OF NEW JERSEY
221st LEGISLATURE
INTRODUCED JANUARY 29, 2024

Sponsored by:
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District 16 (Hunterdon, Mercer, Middlesex and Somerset)
Senator M. TERESA RUIZ
District 29 (Essex and Hudson)

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Senator McKnight

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: 2/5/2024)
AN ACT concerning public school libraries and public libraries, supplementing Title 18A of the New Jersey Statutes, and amending N.J.S.2C:34-3 and P.L.1945, c.169.

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

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

2. (New section) 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 age-relevant information, stories, perspectives, and ideas.
   d. In Bd. of Ed. v. Pico, 457 U.S. 853 (1982), the United States Supreme Court recognized that school libraries are "completely voluntary on the part of students[,]" a student’s selection of books from a school library "is entirely a matter of free choice[,]" and the school library affords a student "an opportunity at self-education and individual enrichment that is wholly optional."
   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 media specialists 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 media specialists and librarians receive extensive professional training that prepares them to develop and curate collections designed to meet the broad and varied interests of the public.

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

h. Despite this, school library media specialists and librarians
have been targeted, harassed, and defamed 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 media
specialists and librarians are trained to curate and develop
collections, and to protect school library media specialists and
librarians from unnecessary and unwarranted harassment and
defamation for performance of their duties.

3. (New section) As used in sections 4 through 7 of
P.L. 2011, c. (pending before the
Legislature as this bill):

“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 notwithstanding the author’s membership in
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 and age groups
served by the school library.

“Emotional distress” means significant mental suffering or
distress.

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

“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.

4. (New section) a. A board of education shall adopt a policy
on the curation 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 b. 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) require student access to age- and grade-appropriate diverse and inclusive material;
(3) acknowledge that library material should not be excluded from a school library because of the origin, background, or views of those contributing to its creation;
(4) provide access to library material that is relevant to the research, independent reading interests, and educational needs of students based on a student’s age, development, or grade level;
(5) recognize the importance of school libraries as centers for voluntary inquiry and the dissemination of information and ideas;
(6) promote the free expression and free access to ideas by students by prohibiting the censorship of library material;
(7) 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 age- and grade-appropriate library material available to schools; and
(8) establish a procedure for a school library media specialist 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 age; or grade-appropriate material; and the continued demand for the library material.

b. 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 and the New Jersey Association of School Librarians. The model policy shall be updated as the commissioner deems necessary.

5. (New section) a. A board of education shall adopt a policy establishing a procedure regarding a request for removal of library material within a school library.

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 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. An individual with a vested interest shall include 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 form is filed, and any student enrolled in the district at the time the form is filed;
(2) require the principal or principal’s designee to appoint a review committee within 10 school days of receiving a request for removal form, consisting of:
   (a) the principal or the principal’s designee;
   (b) the school library media specialist or a teaching staff member similarly trained;
   (c) a representative selected by the board of education;
   (d) at least one grade-appropriate teacher familiar with the library material, provided the teacher selected is not the individual who submitted the form;
   (e) 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;
   (f) if the individual who submitted the form is enrolled in grades nine through 12, a student enrolled in the district, provided the student selected is not the individual who submitted the form; and
   (g) any additional members the principal 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 evaluate the request for removal form, review the challenged library material, and report its recommendations on whether to remove the library material to the board of education within 30 school 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 the principal; and

(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. The board shall provide a written statement of reasons for:
   (a) the removal or non-removal of a library material; and
   (b) any final determination that is contrary to the recommendations of the review committee.

6. (New section) a. Notwithstanding any other provision of law to the contrary, a board of education shall ensure that each school in the district includes diverse and inclusive material as part of its library material.
    b. A board of education shall allow a student to reserve, check out, or access any age- and grade-appropriate library material, including diverse and inclusive material.

7. (New section) a. A school library media specialist or any other teaching staff member that engages in activities as required by sections 4 through 6 of P.L. , c. (C. ) (pending
before the Legislature as this bill) shall be immune from criminal
and civil liability arising from good faith actions performed
pursuant to the provisions of those sections.

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

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

8. (New section) As used in sections 9 through 12 of P.L. , c.
(pending before the Legislature as this bill):
“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
notwithstanding the author’s membership in 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.
“Emotional distress” means significant mental suffering or
distress.
“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.
“Harassment” or “harasses” means a singular act that is severe or
pervasive, or a series of acts over any period of time directed at a
specific person that serves no legitimate purpose and would cause,
or has caused, a reasonable person to suffer emotional distress.
“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, 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
9. (New section) a. In addition to the duties prescribed in section 18 of P.L.1969, c.158 (C.18A:73-33), the State Librarian shall establish a model policy on the curation of library material within a public library. In developing the model policy, the State Librarian shall consult with the New Jersey Library Association.

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 should not be excluded from a public library because of the origin, background, or views of those contributing to its creation;

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

(5) 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;

(6) 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;

(7) 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 deems necessary.

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

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

(1) the creation of a request for removal form 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. An individual with a vested interest shall include any resident who is served by the public library;
the governing body appoint a review committee within 10
business days of receiving a request for removal form, 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 evaluate the request for removal form,
review the challenged library material, and report 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. The board shall provide a
written statement of reasons for:
(a) the removal or non-removal of a library material; and
(b) any final determination that is contrary to the
recommendations of the review committee.

11. (New section) a. Notwithstanding any State or federal law to
the contrary, a governing body of a public library shall include
diverse and inclusive material as part of its library material. The
governing body of a public library shall provide a resident access to
all library material, including diverse and inclusive material.
b. A governing body of a public library shall adopt the policies
established by the State Librarian pursuant to sections 9 and 10 of
P.L. , c. (C. and C. ) (pending before
the Legislature as this bill).

12. (New section) a. Any staff member of a public library,
including a librarian employed by a public library, shall be immune
from criminal and civil liability arising from good faith actions
performed pursuant to the provisions of section 11 of P.L.
c. (C. ) (pending before the Legislature as this bill).
b. (1) Any staff member of a public library, including a
librarian employed by a public library, shall have a civil cause of
action for emotional distress, defamation, libel, slander, damage to
reputation, or any other relevant tort, against any person who
harasses the staff member for complying with the provisions of section 11 of P.L. , c. (C. ) (pending before the Legislature as this bill).

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

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


a. Definitions for purposes of this section:

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

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

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

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

(3) "Specified anatomical area" means:

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

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

(4) "Specified sexual activity" means:

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

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

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

(5) "Knowingly" means:

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

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

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

(7) "Show" means cause or allow to be seen.
b. Promoting obscene material.

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

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

c. Admitting to exhibition of obscene film.

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

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

d. Presumption of knowledge and age.

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

e. Defenses.

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

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

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

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

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

(3) (a) It is an affirmative defense to a prosecution under subsection b. that the defendant is a teaching staff member, including a school library media specialist, who is engaged in the performance of the person’s duties and complying with the
provisions of sections 1 through 7 of P.L. 1999, c. 227 (pending before the Legislature as this bill). As used in this paragraph, “teaching staff member” has the meaning set forth in N.J.S. 18A:1-1.

(b) It is an affirmative defense to a prosecution under subsection b. that the defendant is a staff member of a public library, including a librarian employed by a public library who is engaged in the performance of the person’s duties and complying with the provisions of sections 8 through 12 of P.L. 1999, c. 227 (pending before the Legislature as this bill). As used in this paragraph, “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 New Jersey 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.

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

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

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

a. For an employer, because of the race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, pregnancy or breastfeeding, sex, gender identity or expression, disability or atypical hereditary cellular or blood trait of any individual, or because of the liability for service in the Armed Forces of the United States or the nationality of any individual, or because of the refusal to submit to a genetic test or make available the results of a genetic test to an employer, or because of the refusal of a school library media specialist or teaching staff member to remove library material from a school library except to the extent permitted pursuant to sections 4 and 5 of P.L. 1999, c. 227 (pending before the Legislature as this bill), or because of the refusal of any staff member of a public library, including a librarian, to remove library material from a public library except to the extent permitted pursuant to sections 9 and 10 of P.L. 1999, c. 227 (pending before the Legislature as this bill), to refuse to hire or employ or to bar or to discharge or require to retire, unless justified by lawful considerations other than age, from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment; provided, however, it shall not be an unlawful employment practice to refuse to accept for employment an applicant who has received a notice of induction or orders to report for active duty in the armed forces; provided further
that nothing herein contained shall be construed to bar an employer
from refusing to accept for employment any person on the basis of
sex in those certain circumstances where sex is a bona fide
occupational qualification, reasonably necessary to the normal
operation of the particular business or enterprise; provided further
that it shall not be an unlawful employment practice for a club
exclusively social or fraternal to use club membership as a uniform
qualification for employment, or for a religious association or
organization to utilize religious affiliation as a uniform qualification
in the employment of clergy, religious teachers or other employees
engaged in the religious activities of the association or organization,
or in following the tenets of its religion in establishing and utilizing
criteria for employment of an employee; provided further, that it
shall not be an unlawful employment practice to require the
retirement of any employee who, for the two-year period
immediately before retirement, is employed in a bona fide executive
or a high policy-making position, if that employee is entitled to an
immediate non-forfeitable annual retirement benefit from a pension,
profit sharing, savings or deferred retirement plan, or any
combination of those plans, of the employer of that employee which
equals in the aggregate at least $27,000.00; and provided further
that an employer may restrict employment to citizens of the United
States where such restriction is required by federal law or is
otherwise necessary to protect the national interest.
The provisions of subsections a. and b. of section 57 of
P.L.2003, c.246 (C.34:11A-20), and the provisions of section 58 of
P.L.2003, c.246 (C.26:8A-11), shall not be deemed to be an
unlawful discrimination under P.L.1945, c.169 (C.10:5-1 et seq.).
For the purposes of this subsection, a "bona fide executive" is a
top level employee who exercises substantial executive authority
over a significant number of employees and a large volume of
business. A "high policy-making position" is a position in which a
person plays a significant role in developing policy and in
recommending the implementation thereof.
For the purposes of this subsection, an unlawful employment
practice occurs, with respect to discrimination in compensation or
in the financial terms or conditions of employment, each occasion
that an individual is affected by application of a discriminatory
compensation decision or other practice, including, but not limited
to, each occasion that wages, benefits, or other compensation are
paid, resulting in whole or in part from the decision or other
practice.
In addition to any other relief authorized by the "Law Against
Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) for
discrimination in compensation or in the financial terms or
conditions of employment, liability shall accrue and an aggrieved
person may obtain relief for back pay for the entire period of time,
except not more than six years, in which the violation with regard to
discrimination in compensation or in the financial terms or conditions of employment has been continuous, if the violation continues to occur within the statute of limitations.

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

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

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

d. For any person to take reprisals against any person because that person has opposed any practices or acts forbidden under this act or because that person has sought legal advice regarding rights under this act, shared relevant information with legal counsel, shared information with a governmental entity, or filed a complaint, testified or assisted in any proceeding under this act or to coerce, intimidate, threaten or interfere with any person in the exercise or
enjoyment of, or on account of that person having aided or
encouraged any other person in the exercise or enjoyment of, any
right granted or protected by this act.

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

f. (1) For any owner, lessee, proprietor, manager,
superintendent, agent, or employee of any place of public
accommodation directly or indirectly to refuse, withhold from or
deny to any person any of the accommodations, advantages,
facilities or privileges thereof, or to discriminate against any person
in the furnishing thereof, or directly or indirectly to publish,
circulate, issue, display, post or mail any written or printed
communication, notice, or advertisement to the effect that any of
the accommodations, advantages, facilities, or privileges of any
such place will be refused, withheld from, or denied to any person
on account of the race, creed, color, national origin, ancestry,
marital status, civil union status, domestic partnership status,
pregnancy or breastfeeding, sex, gender identity or expression,
affectational or sexual orientation, disability, liability for service in
the Armed Forces of the United States or nationality of such person,
or that the patronage or custom thereat of any person of any
particular race, creed, color, national origin, ancestry, marital status,
civil union status, domestic partnership status, pregnancy or
breastfeeding status, sex, gender identity or expression, affectational
or sexual orientation, disability, liability for service in the Armed
Forces of the United States or nationality is unwelcome,
objectionable or not acceptable, desired or solicited, and the
production of any such written or printed communication, notice or
advertisement, purporting to relate to any such place and to be made
by any owner, lessee, proprietor, superintendent or manager thereof,
shall be presumptive evidence in any action that the same was
authorized by such person; provided, however, that nothing
contained herein shall be construed to bar any place of public
accommodation which is in its nature reasonably restricted
exclusively to individuals of one sex, and which shall include but
not be limited to any summer camp, day camp, or resort camp,
bathhouse, dressing room, swimming pool, gymnasium, comfort
station, dispensary, clinic or hospital, or school or educational
institution which is restricted exclusively to individuals of one sex,
provided individuals shall be admitted based on their gender
identity or expression, from refusing, withholding from or denying
to any individual of the opposite sex any of the accommodations,
advantages, facilities or privileges thereof on the basis of sex;
provided further, that the foregoing limitation shall not apply to any
restaurant as defined in R.S.33:1-1 or place where alcoholic
beverages are served.
(2) Notwithstanding the definition of "a place of public accommodation" as set forth in subsection 1. of section 5 of P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor, manager, superintendent, agent, or employee of any private club or association to directly or indirectly refuse, withhold from or deny to any individual who has been accepted as a club member and has contracted for or is otherwise entitled to full club membership any of the accommodations, advantages, facilities or privileges thereof, or to discriminate against any member in the furnishing thereof on account of the race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, pregnancy or breastfeeding, sex, gender identity, or expression, affectional or sexual orientation, disability, liability for service in the Armed Forces of the United States or nationality of such person.

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

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

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

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

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

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

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

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

(1) To refuse to sell, rent, assign, lease or sublease, or offer for sale, rental, lease, assignment, or sublease any real property or part or portion thereof to any person or group of persons or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any real property or part or portion thereof to any person or group of persons because of race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, familial status, pregnancy or breastfeeding, sex, gender identity or
expression, affectional or sexual orientation, liability for service in
the Armed Forces of the United States, disability, nationality, or
source of lawful income used for rental or mortgage payments, or to
represent that any real property or portion thereof is not available
for inspection, sale, rental, lease, assignment, or sublease when in
fact it is so available, or otherwise to deny or withhold any real
property or any part or portion of facilities thereof to or from any
person or group of persons because of race, creed, color, national
origin, ancestry, marital status, civil union status, domestic
partnership status, familial status, pregnancy or breastfeeding, sex,
gender identity or expression, affectional or sexual orientation,
disability, liability for service in the Armed Forces of the United
States, or nationality;

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

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

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

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

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

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

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

(3) (Deleted by amendment, P.L.2003, c.180).
(4) To discriminate against any person or group of persons because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

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

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

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

l. For any person to refuse to buy from, sell to, lease from or to, license, contract with, or trade with, provide goods, services or information to, or otherwise do business with any other person on the basis of the race, creed, color, national origin, ancestry, age, pregnancy or breastfeeding, sex, gender identity or expression, affectional or sexual orientation, marital status, civil union status, domestic partnership status, liability for service in the Armed Forces of the United States, disability, nationality, or source of lawful income used for rental or mortgage payments of such other person or of such other person’s family members, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers. This subsection shall not prohibit refusals or other actions (1) pertaining to employee-employer collective bargaining,
For any person to:
(1) Grant or accept any letter of credit or other document which evidences the transfer of funds or credit, or enter into any contract for the exchange of goods or services, where the letter of credit, contract, or other document contains any provisions requiring any person to discriminate against or to certify that he, she or it has not dealt with any other person on the basis of the race, creed, color, national origin, ancestry, age, pregnancy or breastfeeding, sex, gender identity or expression, affectional or sexual orientation, marital status, civil union status, domestic partnership status, disability, liability for service in the Armed Forces of the United States, or nationality of such other person or of such other person’s family members, partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers.

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

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

For any person to aid, abet, incite, compel, coerce, or induce the doing of any act forbidden by subsections l. and m. of section 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to do so. Such prohibited conduct shall include, but not be limited to:
(1) Buying from, selling to, leasing from or to, licensing, contracting with, trading with, providing goods, services, or information to, or otherwise doing business with any person because that person does, or agrees or attempts to do, any such act or any act prohibited by this subsection; or
(2) Boycotting, commercially blacklisting or refusing to buy from, sell to, lease from or to, license, contract with, provide goods, services or information to, or otherwise do business with any person because that person has not done or refuses to do any such act or any act prohibited by this subsection; provided that this subsection shall not prohibit refusals or other actions either pertaining to employee-employer collective bargaining, labor disputes, or unfair
labor practices, or made or taken in connection with a protest of unlawful discrimination or unlawful employment practices.

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

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

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

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

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

(2) For an employer to refuse to permit an employee to utilize leave, as provided for in this subsection q., which is solely used to accommodate the employee’s sincerely held religious observance or practice. Except where it would cause an employer to incur an undue hardship, no person shall be required to remain at his place of employment during any day or days or portion thereof that, as a
requirement of his religion, he observes as his Sabbath or other holy
day, including a reasonable time prior and subsequent thereto for
travel between his place of employment and his home; provided that
any such absence from work shall, wherever practicable in the
reasonable judgment of the employer, be made up by an equivalent
amount of time and work at some other mutually convenient time,
or shall be charged against any leave with pay ordinarily granted,
other than sick leave, and any such absence not so made up or
charged, may be treated by the employer of that person as leave
taken without pay.

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

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

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

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

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

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

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

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

r. For any employer to take reprisals against any employee for
requesting from, discussing with, or disclosing to, any other
employee or former employee of the employer, a lawyer from
whom the employee seeks legal advice, or any government agency
information regarding the job title, occupational category, and rate
of compensation, including benefits, of the employee or any other
employee or former employee of the employer, or the gender, race, ethnicity, military status, or national origin of the employee or any other employee or former employee of the employer, regardless of whether the request was responded to, or to require, as a condition of employment, any employee or prospective employee to sign a waiver, or to otherwise require an employee or prospective employee to agree, not to make those requests or disclosures. Nothing in this subsection shall be construed to require an employee to disclose such information about the employee herself to any other employee or former employee of the employer or to any authorized representative of the other employee or former employee.

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

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

For the purposes of this subsection, in determining whether an accommodation would impose undue hardship on the operation of
an employer's business, the factors to be considered include: the
overall size of the employer’s business with respect to the number
of employees, number and type of facilities, and size of budget; the
type of the employer's operations, including the composition and
structure of the employer's workforce; the nature and cost of the
accommodation needed, taking into consideration the availability of
tax credits, tax deductions, and outside funding; and the extent to
which the accommodation would involve waiver of an essential
requirement of a job as opposed to a tangential or non-business
necessity requirement.

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

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

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

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

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

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

Comparisons of wage rates shall be based on wage rates in all of
an employer's operations or facilities. For the purposes of this
subsection, "member of a protected class" means an employee who
has one or more characteristics, including race, creed, color,
national origin, nationality, ancestry, age, marital status, civil union
status, domestic partnership status, affectional or sexual orientation,
genetic information, pregnancy, sex, gender identity or expression,
disability or atypical hereditary cellular or blood trait of any
individual, [or] liability for service in the armed forces, or the
refusal of a school library media specialist, teaching staff member,
librarian, or any staff member of a public library to remove library
material from a school library or a public library, for which subsection a. of this section prohibits an employer from refusing to hire or employ or barring or discharging or requiring to retire from employment or discriminating against the individual in compensation or in terms, conditions or privileges of employment.

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

15. This act shall take effect one year 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.

STATEMENT

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

Under the bill, 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. “Library material” is defined under the bill 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.

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 and the New Jersey Association of School Librarians. The bill 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 bill 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 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. The State Librarian is to establish a model policy, in consultation with the New Jersey Library Association, for use and adoption by public libraries.

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

The bill 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 and age 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.

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

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

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

It is the sponsor’s intent that the Legislature 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 media specialists and librarians are trained to curate and develop collections, and to protect school library media specialists and librarians from unnecessary and unwarranted harassment and defamation for performance of their duties.