

LOUISIANA LEGISLATION AND INTELLECTUAL FREEDOM

Louisiana statutes relevant to intellectual freedom are excerpted below. It should be noted that any state statutes must be in compliance with the United States Constitution and with constitutional rules enunciated by the Supreme Court of the United States, or risk overrule by the Court.

State Laws Pertaining to Obscenity

While the Congress has legislated from time to time to restrain intellectual freedom, the chief threat to intellectual freedom has more often come from state and local authorities anxious to respond to constituency pressures to “do something” about “those books” or “those movies” or “those displays” which some consider offensive. Louisiana’s laws relative to obscenity and privacy are here reprinted in part from West’s Louisiana Statutes Annotated (West, 2005).

La. R.S. 14:106 Obscenity

A. The crime of obscenity is the intentional:

- (2)(a) Participation or engagement in, or management, operation, production, presentation, performance, promotion, exhibition, advertisement, sponsorship, electronic communication, or display of, hard core sexual conduct when the trier of fact determines that the average person applying contemporary community standards would find that the conduct, taken as a whole, appeals to the prurient interest; and the hard core sexual conduct, as specifically defined herein, is presented in a patently offensive way; and the conduct taken as a whole lacks serious literary, artistic, political, or scientific value.
- (3)(a) Sale, allocation, consignment, distribution, dissemination, advertisement, exhibition, electronic communication, or display of obscene material, or the preparation, manufacture, publication, electronic communication, or printing of obscene material for sale, allocation, consignment, distribution, advertisement, exhibition, electronic communication, or display.
- (3)(b) Obscene material is any tangible work or thing which the trier of fact determines that the average person applying contemporary community standards would find, taken as a whole, appeals to the prurient interest, and which depicts or describes in a patently offensive way, hard core sexual conduct specifically defined in Paragraph (2) of this Subsection, and the work or thing taken as a whole lacks serious literary, artistic, political, or scientific value.

D. (1) The provisions of this Section do not apply to recognized and established schools, churches, museums, medical clinics, hospitals, physicians, **public libraries**, governmental agencies, quasi-governmental sponsored organizations and persons acting in their capacity as employees or agents of such organizations, or a person solely employed to operate a movie projector in a duly licensed theatre.

State Laws pertaining to the right to privacy and particularly to access to circulation records

A second area of intense interest to the information professional is the matter of access to circulation records. Persons obtaining information from a library have a legitimate concern that their use of materials may cause them to be investigated, perhaps lose their jobs, or lead to public embarrassment.

Library patrons and library professionals therefore ought to be solicitous of the right to privacy, especially where it concerns access to library circulation records. The Louisiana statute on the matter is modeled upon a broad interpretation of the Family Education and Privacy Rights Act of 1974 (popularly known as the Buckley Amendment, after its sponsor Senator James Buckley of New York). The ALA Office

for Intellectual Freedom opposes the application of the Buckley Amendment to library records. Under Subsection A of La. R.S. 44:13, parents may be allowed to see the circulation records only of their own children.

La. R. S. 44:13 Registration records and other records of use maintained by libraries

A. Notwithstanding any provisions of this Chapter or any other law to the contrary, records of any library which is in whole or in part supported by public funds, including the records of public, academic, school, and special libraries, and the State Library of Louisiana, indicating which of its documents or other materials, regardless of format, have been loaned to or used by an identifiable individual or group of individuals may not be disclosed except to a parent or custodian of a minor child seeking access to that child's records, to persons acting within the scope of their duties in the administration of the library, to persons authorized in writing by the individual or group of individuals to inspect such records, or by order of a court of law.

B. Notwithstanding any provisions of this Chapter or any other law to the contrary, records of any such library which are maintained for purposes of registration or for determining eligibility for the use of library services may not be disclosed except as provided in Subsection A of this Section.

C. No provision of this Section shall be so construed as to prohibit or hinder any library or any business office operating jointly with a library from collecting overdue books, documents, films, or other items and/or materials owned or otherwise belonging to such library, nor shall any provision of this Section be so construed as to prohibit or hinder any such library or business office from collecting fines on such overdue books, documents, films, or other items and/or materials.

D. No provision of this Section shall be so construed as to prohibit or hinder any library or librarian from providing information to appropriate law enforcement officers investigating criminal activity in the library witnessed by an employee or patron of the library and reported by the administrative librarian to the appropriate law enforcement officials.

(1) The term "criminal activity in the library", as used in this Subsection, shall mean an activity which constitutes a crime, or otherwise constitutes an offense or violation of any law or ordinance, occurring:

- (a) Within any library building,
- (b) Upon any library property, or
- (c) Near a library and the proximity of such activity to a library or library property constitutes an element of the offense.

(2) The term "information", as used in this Subsection shall include but not be limited to electronic data files, security surveillance video tapes, or other records or materials which may constitute evidence which would assist law enforcement officers in identifying the individual or group of individuals who may have committed criminal activity in the library.

Added by Acts 1983, No. 523, §1; Acts 1991, No. 938, §4; Acts 2001, No. 528, §1.

