

HOUSE BILL No. 2774

By Committee on Federal and State Affairs

1-31

9 AN ACT concerning schools; relating to courses of instruction; amending
10 K.S.A. 21-4301a and repealing the existing section.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 New Section 1. Prior to any pupil enrolling in any course of instruc-
14 tion in any accredited school which will present to pupils any material or
15 performance which is obscene, as defined in K.S.A. 21-4301, and amend-
16 ments thereto, the parent or guardian of such pupil shall be notified of
17 such material or performance. In order for the pupil to enroll in and
18 attend such course, the parent or guardian shall sign a written document
19 which states the parent or guardian has reviewed the material or per-
20 formance and is allowing the pupil to enroll in and attend such course.

21 Sec. 2. K.S.A. 21-4301a is hereby amended to read as follows: 21-
22 4301a. (a) Promoting obscenity to minors is promoting obscenity, as de-
23 fined by K.S.A. 21-4301 and amendments thereto, where the recipient of
24 the obscene material or obscene device or a member of the audience of
25 an obscene performance is a child under the age of 18 years.

26 (b) Notwithstanding the provisions of K.S.A. 21-3202 and amend-
27 ments thereto to the contrary, it shall be an affirmative defense to any
28 prosecution under this section that:

29 (1) The defendant had reasonable cause to believe that the minor
30 involved was 18 years old or over, and such minor exhibited to the de-
31 fendant a draft card, driver's license, birth certificate or other official or
32 apparently official document purporting to establish that such minor was
33 18 years old or more.

34 (2) The allegedly obscene material was purchased, leased or other-
35 wise acquired by a public, private or parochial school, college or univer-
36 sity, and that such material was either sold, leased, distributed or dissem-
37 inated by a teacher, instructor, professor or other faculty member or
38 administrator of such school as part of or incident to an approved course
39 or program of instruction at such school, *provided, that such course or*
40 *program of instruction meets the requirements of section 1, and amend-*
41 *ments thereto.*

42 (3) The defendant is an officer, director, trustee or employee of a
43 public library and the allegedly obscene material was acquired by a public

1 library and was disseminated in accordance with regular library policies
2 approved by its governing body.

3 (4) An exhibition in a state of nudity is for a bona fide scientific or
4 medical purpose, or for an educational or cultural purpose for a bona fide
5 school, museum or library, *provided, that such exhibition for a school*
6 *meets the requirements of section 1, and amendments thereto.*

7 (c) (1) Promoting obscenity to minors is a class A nonperson mis-
8 demeanor on conviction of the first offense.

9 (2) Promoting obscenity to minors is a severity level 8, person felony
10 on conviction of a second or subsequent offense.

11 (3) Conviction of a violation of a municipal ordinance prohibiting acts
12 which constitute promoting obscenity to minors shall be considered a
13 conviction of promoting obscenity to minors for the purpose of deter-
14 mining the number of prior convictions and the classification of the crime
15 under this section.

16 (d) Upon any conviction of promoting obscenity to minors, the court
17 may require, in addition to any fine or imprisonment imposed, that the
18 defendant enter into a reasonable recognizance with good and sufficient
19 surety, in such sum as the court may direct, but not to exceed \$50,000,
20 conditioned that, in the event the defendant is convicted of a subsequent
21 offense of promoting obscenity to minors within two years after such
22 conviction, the defendant shall forfeit the recognizance.

23 (e) This section shall be a part of and supplemental to the Kansas
24 criminal code.

25 Sec. 3. K.S.A. 21-4301a is hereby repealed.

26 Sec. 4. This act shall take effect and be in force from and after its
27 publication in the statute book.