S.220

Introduced by Senators Hardy, Gulick, Clarkson, Harrison, Perchlik, Watson, White and Wrenner

Referred to Committee on Education

Date: January 5, 2024

Subject: Libraries, history, and information technology; libraries; miscellaneous amendments

Statement of purpose of bill as introduced: This bill proposes to establish unenforceable contract provisions for the licensing of electronic literary products, require public libraries to adopt policies governing the selection and reconsideration of library materials, amend the provisions governing the confidentiality of library records for library users over 12 years of age, create the positions of School Library Consultant within the Agency of Education and Library Consultants within the Department of Libraries, authorize the Department of Libraries to issue Certificates of Public Librarianship based on a program of continuing education, incorporate public libraries into the public safety statutes governing schools and school property, amend the governance structures and funding of public libraries, require the State Librarian and Board of Libraries to adopt rules governing the minimum standards for public libraries, and appropriate monies for various public library services and the accessibility of library facilities and materials.
An act relating to Vermont’s public libraries

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Findings and Intent * * *

Sec. 1. FINDINGS AND INTENT

(a) Findings. The General Assembly finds that:

(1) Vermont’s libraries are essential to the enlightenment and education of Vermont’s citizens;

(2) it is vital that Vermont’s citizens have meaningful access to free public libraries, library resources, and library materials, including electronic literary products, and access to these materials should not be unduly limited or restricted;

(3) it is also vital that Vermont’s primary and secondary education students have meaningful access to well-supported and staffed school libraries and age-appropriate school library resources and materials, including electronic literary products, and access to these materials should not be unduly limited or restricted;

(4) Vermont’s academic and institutional libraries play a crucial role in sustaining academic freedom and providing access to academic and specialized library collections and services to Vermont college and graduate students, academics, historians, and others;
(5) the State of Vermont values its diverse citizenry and believes that all citizens should have equal access to library resources and services without discrimination;

(6) in upholding the principles of the First Amendment to the U.S. Constitution, libraries serve as guardians of citizens’ rights to receive and express diverse ideas and information, unencumbered by censorship, discrimination, or bias;

(7) as places of public accommodation, public libraries are obligated to ensure their services, facilities, and resources are accessible and inclusive to all, without favor or discrimination;

(8) libraries play a vital role in fostering a culture of intellectual freedom and inquiry, allowing individuals to explore a wide range of subjects without fear of reprisal, ridicule, or discrimination;

(9) individuals use libraries and library materials with the expectation that library records will remain confidential and that library property will be protected by the same public safety standards as other educational centers;

(10) Vermont’s library trustees, librarians, and library staff will benefit from a certificate program that recognizes their meaningful roles within Vermont’s library systems and their dedication to continuing education, and
(11) Vermont’s public libraries will benefit from updated minimum standards that may improve policies governing materials, programming, accessibility, and public access to information technology.

(b) Intent. Therefore, it is the intent of the General Assembly to protect libraries from contracts and trade practices that interfere with libraries’ duties and core missions; require library procedures and policies that will honor the role of libraries as centers for intellectual freedom; foster the role of libraries as community centers; and empower the Department of Libraries to provide guidance, education, and minimum standards for all of Vermont’s libraries.

*** Licensing of Electronic Literary Products ***

Sec. 2. 22 V.S.A. chapter 3, subchapter 4 is added to read:

Subchapter 4. Electronic Literary Products

§ 161. DEFINITIONS

As used in this subchapter:

(1) “Digital audiobook” means a published work that has been converted into a voice recording and released in a digital audio file for listening on an electronic device.

(2) “Electronic book” means a text document that has been converted into or published in a digital format that is read on an electronic device.

(3) “Electronic literary product” means a digital audiobook or an electronic book.
(4) “Public funds” means any money received or spent by a public library from State or municipal appropriations, taxes, fees, donations, or any interest accumulating from the maintenance and investment of those sources.  

(5) “Public library” means a public library as defined in subdivision 101(2) of this title.  

(6) “Publisher” means one whose business is one or more of the following: the manufacture, promulgation, license, or sale of books, audiobooks, journals, magazines, newspapers, or other literary productions, including those in the form of electronic literary materials.  

§ 162. ELECTRONIC LITERARY PRODUCTS; UNENFORCEABLE CONTRACTS  

(a) Any contract offered by a publisher to license electronic literary products to the public in Vermont is governed by State law.  

(b) Contracts to purchase or license electronic literary products that include prohibited provisions as enumerated in section 183 of this subchapter are unconscionable and are deemed unenforceable and void. The waiver of any of the provisions of this subchapter is contrary to public policy and shall be deemed unenforceable and void.  

(c) A contract for electronic literary products shall contain no provision that.
(1) precludes, limits, or restricts the library from performing its core missions, including any provision that:

(A) precludes, limits, or restricts the library from licensing electronic literary products;

(B) prohibits the library from loaning electronic literary materials to borrowers;

(C) restricts or limits the library’s right to loan the electronic literary materials to borrowers using technological protection measures;

(D) restricts or limits the use of technological protection measures for loaning the work to borrowers;

(E) restricts or limits the library’s right to make nonpublic preservation copies of the electronic literary products;

(F) restricts or limits the library’s right to loan electronic literary products via interlibrary loan systems; or

(G) restricts or limits the library’s ability to virtually recite text and display artwork of any products to library patrons such that the products would not have the same educational utility as when recited or displayed at a library facility;

(2) restricts the number of licenses for electronic literary products that the library may acquire after the same item is made available to the public.
(2) requires the library to acquire a license for any electronic literary product at a price greater than that charged to the public for the same item;

(3) restricts the library’s right to determine loan periods for licensed electronic literary products;

(4) restricts the total number of times the library may loan any licensed electronic literary product over the course of any license agreement;

(5) restricts the duration of any licensing agreements;

(6) restricts the library from disclosing any terms of its license agreements to other libraries; or

(7) requires the library to violate any provision of section 172 of this title.

§ 163. ELECTRONIC LITERARY PRODUCTS; UNFAIR AND DECEPTIVE TRADE PRACTICES

(a) A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of 9 V.S.A. § 2453.

(b) Actions for relief pursuant to this title may be brought by libraries, library officers, or borrowers, or shall be prosecuted by the Attorney General.

* * * Library Policies; Selection and Retention of Library Materials * * *

Sec. 3. 22 V.S.A. § 67 is amended to read:

§ 67. PUBLIC LIBRARIES; STATEMENT OF POLICY; USE OF FACILITIES AND RESOURCES
(c) To ensure that Vermont libraries protect and promote the principles of free speech, inquiry, discovery, and public accommodation, it is necessary that the trustees, managers, or directors of free public libraries adopt policies that comply with the First Amendment to the U.S. Constitution and State and federal civil rights and antidiscrimination laws.

Sec. 4. 22 V.S.A. § 69 is added to read:

§ 69. PUBLIC LIBRARIES: SELECTION AND RECONSIDERATION OF LIBRARY MATERIALS

A public library shall adopt a policy for the selection and reconsideration of library materials that complies with the First Amendment to the U.S. Constitution, the Civil Rights Act of 1964, and State laws prohibiting discrimination in places of public accommodation. A public library may adopt as its policy a model policy adopted by the Department of Libraries pursuant to section 606 of this title.

Sec. 5. 22 V.S.A. § 606 is amended to read:

§ 606. OTHER DUTIES AND FUNCTIONS

The Department, in addition to the functions specified in section 605 of this title:
May develop and adopt model policies for free public libraries concerning collection development, display, meeting room use, patron behavior, internet use, materials reconsideration, and other relevant topics to ensure substantive compliance with the First Amendment to the U.S. Constitution and Vermont laws prohibiting discrimination.

* * * Confidentiality of Library Records; Minors * * *

Sec. 6. 22 V.S.A. § 172 is amended to read:

§ 172. LIBRARY RECORD CONFIDENTIALITY; EXEMPTIONS

* * *

(b) Unless authorized by other provisions of law, the library’s officers, employees, and volunteers shall not disclose the records except:

* * *

(4) to custodial parents or guardians of patrons under age 16 12 years of age; or

* * *

* * * Library Consultant; Positions * * *

Sec. 7. LIBRARY CONSULTANT POSITIONS; AGENCY OF EDUCATION AND DEPARTMENT OF LIBRARIES

(a) One full-time, classified position is created in the Agency of Education for the purpose of establishing a School Library Consultant, who shall coordinate with the Department of Libraries to assist school libraries.
(b) Two full-time, classified Library Consultant positions are created in the Department of Libraries to assist with the duties and functions of the Department established by this act.

** ** Training and Education for Library Staff ** **

Sec. 8. 22 V.S.A. § 606 is amended to read:

§ 606. OTHER DUTIES AND FUNCTIONS

The Department, in addition to the functions specified in section 605 of this title:

** **

(5) ** ** May ** ** Shall provide a continuing education program for a Certificate in Public Librarianship. The Department shall conduct seminars, workshops, and other programs to increase the professional competence of librarians in the State.

** **

** ** Public Safety ** **

Sec. 9. 13 V.S.A. § 1702 is amended to read:

§ 1702. CRIMINAL THREATENING

** **

(d) A person who violates subsection (a) of this section by making a threat that places any person in reasonable apprehension that death, serious bodily injury, or sexual assault will occur at a public or private school, postsecondary
education institution; public library; place of worship; polling place during
election activities; the Vermont State House; or any federal, State, or municipal
building shall be imprisoned not more than two years or fined not more than
$2,000.00, or both.

* * *

(h) As used in this section:

* * *

(12) “Public library” means a public library as defined in 22 V.S.A.

§ 101.

* * *

Sec. 10. 13 V.S.A. § 4004 is amended to read:

§ 4004. POSSESSION OF DANGEROUS OR DEADLY WEAPON IN A
SCHOOL BUS OR SCHOOL BUILDING, PUBLIC LIBRARY, OR
ON SCHOOL PROPERTY

(a) No person shall knowingly possess a firearm or a dangerous or deadly
weapon while within a school building, public library, or on a school bus. A
person who violates this section shall, for the first offense, be imprisoned for
not more than one year or fined not more than $1,000.00, or both, and for a
second or subsequent offense shall be imprisoned for not more than three years
or fined not more than $5,000.00, or both.
(b) No person shall knowingly possess a firearm or a dangerous or deadly weapon on any school property or public library property with the intent to injure another person. A person who violates this section shall, for the first offense, be imprisoned for not more than three years or fined not more than $1,000.00, or both, and for a second or subsequent offense shall be imprisoned for not more than five years or fined not more than $5,000.00, or both.

(c) This section shall not apply to:

   * * *

   (3) Possession and use of firearms or dangerous or deadly weapons if the governing body, trustees, managers, or directors of a public library authorize possession or use for specific occasions or for instructional or other specific purposes.

(d) As used in this section:

   * * *

   (6) “Public library” means a public library as defined in 22 V.S.A. § 101.

   (7) “Public library property” means any property owned by a public library.
* * * Library Governance * * *

Sec. 11. 22 V.S.A. § 105 is amended to read:

§ 105. GENERAL POWERS

(a) The trustees, managers, or directors shall:

(1) elect the officers of the corporation from their number and have the
control and management of the affairs, finances, and property of the

(2) adopt bylaws and policies governing the operation of the library;

(3) establish a library budget;

(4) hold regular meetings; and

(5) ensure compliance with the terms of any funding, grants, or
bequests.

(b) The Trustees, managers, or directors may:

(1) accept donations and, in their discretion, hold the donations in the
form in which they are given for the purposes of science, literature, and art
germane to the objects and purposes of the corporation. They may;

(2) in their discretion, receive by loan books, manuscripts, works of art,
and other library materials and hold or circulate them under the conditions
specified by the owners.
Sec. 12. 22 V.S.A. § 141 is amended to read:

§ 141. ESTABLISHMENT AND MAINTENANCE

(a) A municipality may establish and maintain public libraries for the use of its residents public libraries.

(b) A municipality may provide library services to the residents of other municipalities, upon terms to be agreed upon, and may annually contract with a library or library corporation to furnish library materials to its residents free of charge and A municipality may appropriate money for that purpose the purposes described in this subsection and may annually appropriate money for the maintenance, care, increase, and support of a library held in trust for the residents of the municipality.

Sec. 13. 22 V.S.A. § 142 is amended to read:

§ 142. APPROPRIATIONS

A municipality establishing and maintaining a library or contracting for library services shall appropriate money as necessary for suitable facilities and for the foundation of a public library and At the annual municipal meeting, the municipality shall vote to appropriate money annually in sufficient amounts for the maintenance, care, and increase of the library in an amount voted at its annual meeting.
Sec. 14. 22 V.S.A. § 143 is amended to read:

§ 143. TRUSTEES

(a) Unless a municipality which that has established or shall establish a public library votes at its annual meeting to elect a board of trustees, the governing body of the municipality shall appoint the trustees. The appointment or election of the trustees shall continue in effect until changed at an annual meeting of the municipality. When trustees are first chosen, they shall be elected or appointed for staggered terms.

(b) The board shall consist of not less than five trustees who shall have full power to:

(1) manage the public library, make and any property that shall come into the hands of the municipality by gift, purchase, devise, or bequest for the use and benefit of the library;

(2) adopt bylaws, and policies governing the operation of the library;

(3) elect officers, establish a library policy and receive, control and manage property which shall come into the hands of the municipality by gift, purchase, devise or bequest for the use and benefit of the library;

(4) establish a library budget;

(5) hold regular meetings; and

(6) ensure compliance with the terms of any funding, grants, or requests.
(c) The board may appoint a director for the efficient administration and conduct of the library. A library director shall be under the supervision and control of the library board of trustees.

(b) When trustees are first chosen, they shall be elected or appointed for staggered terms.

* * * Department of Libraries * * *

Sec. 15. 22 V.S.A. § 606 is amended to read:

§ 606. OTHER DUTIES AND FUNCTIONS

The Department, in addition to the functions specified in section 605 of this title:

* * *

(8) Shall be the primary access point for State information, and provide advice on State information technology policy, adopt a collection development policy that reflects diversity of race, ethnicity, sex, gender identity, sexual orientation, and disability status, and Vermont’s diverse people and history.

* * *

Sec. 16. 22 V.S.A. § 612 is added to read:

§ 612. RULES; MINIMUM STANDARDS FOR VERMONT PUBLIC LIBRARIES

The Department of Libraries shall adopt rules governing the minimum standards for Vermont public libraries. At minimum, the rules shall:
(1) require all public libraries to adopt policies governing intellectual freedom, collection development, materials reconsideration, and programming;

(2) require that public library policies shall be developed and adopted within a non-discrimination framework that explicitly prohibits discrimination;

(3) establish minimum standards for the public availability of information technology at public libraries;

(4) establish continuing education requirements for public library trustees; and

(5) establish recommendations for:

(A) library building specifications, meeting rooms, collections sizes, and programming levels based on community population;

(B) the regular inspection of library buildings and property;

(C) facility maintenance and improvement plans; and

(D) minimum municipal funding for public libraries.

*** Appropriations ***

Sec. 17. APPROPRIATIONS

The following sums are appropriated from the General Fund in fiscal year 2025:

(1) $275,000.00 to the Department of Libraries to support the programs and services established by this act.
Sec. 18. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

* * * Library Policies; Selection and Retention of Library Materials * * *

Sec. 1. 22 V.S.A. § 67 is amended to read:

§ 67. PUBLIC LIBRARIES; STATEMENT OF POLICY; USE OF FACILITIES AND RESOURCES

* * *

(c) To ensure that Vermont libraries protect and promote the principles of free speech, inquiry, discovery, and public accommodation, it is necessary that the trustees, managers, or directors of free public libraries adopt policies that comply with the First Amendment to the U.S. Constitution and State and federal civil rights and antidiscrimination laws.

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* * * Confidentiality of Library Records; Minors * * *

Sec. 3. 22 V.S.A. § 172 is amended to read:

§ 172. LIBRARY RECORD CONFIDENTIALITY; EXEMPTIONS * * *
(b) Unless authorized by other provisions of law, the library’s officers, employees, and volunteers shall not disclose the records except:

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(4) to custodial parents or guardians of patrons under age 16 years of age; or

* * *

**Public Safety**

Sec. 4. 13 V.S.A. § 1702 is amended to read:

§ 1702. CRIMINAL THREATENING

* * *

(d) A person who violates subsection (a) of this section by making a threat that places any person in reasonable apprehension that death, serious bodily injury, or sexual assault will occur at a public or private school; postsecondary education institution; public library; place of worship; polling place during election activities; the Vermont State House; or any federal, State, or municipal building shall be imprisoned not more than two years or fined not more than $2,000.00, or both.

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(h) As used in this section:

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(12) “Public library” means a public library as defined in 22 V.S.A. § 101.

* * *

**Library Governance**

Sec. 5. 22 V.S.A. § 105 is amended to read:

§ 105. GENERAL POWERS

(a) The trustees, managers, or directors shall:

(1) elect the officers of the corporation from their number and have the control and management of the affairs, finances, and property of the corporation;

(2) adopt bylaws and policies governing the operation of the library;

(3) establish a library budget;

(4) hold regular meetings; and
(5) ensure compliance with the terms of any funding, grants, or bequests.

(b) The Trustees, managers, or directors may:

(1) accept donations and, in their discretion, hold the donations in the form in which they are given for the purposes of science, literature, and art germane to the objects and purposes of the corporation. They may; and

(2) in their discretion, receive by loan books, manuscripts, works of art, and other library materials and hold or circulate them under the conditions specified by the owners.

Sec. 6. 22 V.S.A. § 143 is amended to read:

§ 143. TRUSTEES

(a) Unless a municipality which has established or shall establish a public library votes at its annual meeting to elect a board of trustees, the governing body of the municipality shall appoint the trustees. The appointment or election of the trustees shall continue in effect until changed at an annual meeting of the municipality. When trustees are first chosen, they shall be elected or appointed for staggered terms.

(b) The board shall consist of not fewer than five trustees who shall have full power to:

(1) manage the public library, make and any property that shall come into the hands of the municipality by gift, purchase, devise, or bequest for the use and benefit of the library;

(2) adopt bylaws, and policies governing the operation of the library;

(3) elect officers, establish a library policy and receive, control and manage property which shall come into the hands of the municipality by gift, purchase, devise or bequest for the use and benefit of the library;

(4) establish a library budget;

(5) hold regular meetings; and

(6) ensure compliance with the terms of any funding, grants, or bequests.

(c) The board may appoint a director for the efficient administration and conduct of the library. A library director shall be under the supervision and control of the library board of trustees.

(b) When trustees are first chosen, they shall be elected or appointed for staggered terms.
* * * Department of Libraries * * *

Sec. 7. 22 V.S.A. § 606 is amended to read:

§ 606. OTHER DUTIES AND FUNCTIONS

The Department, in addition to the functions specified in section 605 of this title:

* * *

(5) Shall provide a continuing education program for a Certificate in Public Librarianship. The Department shall conduct seminars, workshops, and other programs to increase the professional competence of librarians in the State.

* * *

(8) Shall be the primary access point for State information, and provide advice on State information technology policy.

(9) May develop and adopt model policies for free public libraries concerning displays, meeting room use, patron behavior, internet use, materials reconsideration, and other relevant topics to ensure substantive compliance with the First Amendment to the U.S. Constitution and Vermont laws prohibiting discrimination.

(10) Shall adopt a collection development policy that reflects Vermont’s diverse people and history, including diversity of race, ethnicity, sex, gender identity, sexual orientation, disability status, religion, and political beliefs.

(11) May develop best practices and guidelines for public libraries and library service levels.

* * * School Library Material Selection * * *

Sec. 7a. 16 V.S.A. § 1624 is added to read:

§ 1624. SCHOOL LIBRARY MATERIAL SELECTION POLICY

(a) Each school board and each approved independent school shall develop, adopt, ensure the enforcement of, and make available in the manner described under subdivision 563(1) of this title a library material selection policy and procedures for the reconsideration of materials. The policy and procedures shall affirm the importance of intellectual freedom and be guided by the First Amendment to the U.S. Constitution, the American Library Association’s Freedom to Read Statement, and Vermont’s Freedom to Read Statement.

(b) In order to ensure a student’s First Amendment rights are protected and all students’ identities are affirmed and dignity respected, the policy and
procedures required under subsection (a) of this section shall prohibit the removal of school library materials for the following reasons:

(1) partisan approval or disapproval;

(2) the author’s race, nationality, gender identity, sexual orientation, political views, or religious views;

(3) school board members’ or members of the public’s discomfort, personal morality, political views, or religious views;

(4) the author’s point of view concerning the problems and issues of our time, whether international, national, or local;

(5) the race, nationality, gender identity, sexual orientation, political views, or religious views of the protagonist or other characters; or

(6) content related to sexual health that addresses physical, mental, emotional, or social dimensions of human sexuality, including puberty, sex, and relationships.

(c) The policy and procedures required under subsection (a) of this section shall ensure that school library staff are responsible for curating and developing collections that provide students with access to a wide array of materials that are relevant to students’ research, independent reading interests, and educational needs, as well as ensuring such materials are tailored to the cognitive and emotional levels of the children served by the school.

*** Effective Date ***

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2024.