

## 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, 2000).

#### La. R.S. 14:106 Obscenity

A. (2)(a) Participation or engagement in, or management, production, presentation, performance, promotion, exhibition, advertising, sponsorship, or display of hard core sexual conduct when the trier of fact determines that the average person applying contemporary community standards would find 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.

A.(3) Sale, allocation, consignment, distribution, dissemination, advertisement, exhibition or display of obscene material, or preparation, manufacture, publication, or printing of obscene material for sale, allocation, consignment, distribution, advertisement, exhibition or display.

Obscene material is any tangible work or thing which the trier of fact determines (a) that the average person applying contemporary standards would find taken as a whole, appeals to the prurient interest, and (b) depicts or describes in a patently offensive way, hard core sexual conduct specifically defined in Paragraph (2) above and (c) 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

**La. R. S. 44:13 Registration records and other records of use maintained by libraries (Note: as this manual goes to press, this section of La. R.S. 44:13 has been revised. Consult the Louisiana Legislature’s website at [www.legis.state.la.us](http://www.legis.state.la.us) for further information.)**

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 within the scope of their duties in the administration of the library- to persons 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 is Subsection A. of this Section.

C. No provision of the 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 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.

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Buckley Amendment:  
Student Privacy v. Parents’ Right to Know,” in Intellectual Freedom Manual, 4<sup>th</sup> ed. (Chicago: American Library Association, 1992), 194.