

## Censorship Bills Introduced In North Carolina General Assembly

The following two bills have been introduced in the North Carolina General Assembly. Librarians are urged to write their local representatives about the damages to libraries inherent in both bills.

### GENERAL ASSEMBLY OF NORTH CAROLINA — 1973 SESSION

#### HOUSE BILL 1422

Short Title: Anti-Obscenity Revisions.

(Public)

Sponsor: Representative Jernigan of Cumberland.

Referred to Judiciary II.

January 23, 1974

A BILL TO BE ENTITLED AN ACT TO REVISE THE NORTH CAROLINA ANTI-OBSCENITY STATUTE. The General Assembly of North Carolina enacts:

Section 1. G.S. 14-190.1(b) as the same now appears in the 1971 Supplement to Replacement Volume 1B of the General Statutes is hereby rewritten to read as follows: "For purposes of this Article any material is obscene if:

"(1) The material depicts or describes in a patently offensive way sexual conduct specifically defined by subsection (c) of this section; and

(2) The average person applying contemporary community standards relating to the depiction or representation of sexual matters would find that the material taken as a whole appeals to the prurient interest in sex; and

(3) The material taken as a whole lacks serious literary, artistic, political or scientific value; and

(4) The material as used is not protected or privileged under the Constitution of the United States or the Constitution of North Carolina;"

Sec. 2. G.S. 14-190.1(c) as the same now appears in the 1971 Supplement or Replacement Volume 1B of the General Statutes is hereby redesignated as G.S. 14-190.1(d) and in lieu thereof there is hereby added a new subsection (c) which shall read as follows:

"For the purposes of this Article, any writing, picture, record or other representation, play, dance or other performance, still or motion picture, film, filmstrip, projection slide or sound recording, sound tape or sound track or any matter or material of whatever form shall be obscene if its represents, embodies, exhibits, describes or narrates accounts of:

(1) Sexual conduct, which shall be defined as acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, public area, buttocks or the breasts of a female for the purpose of sexual stimulation, gratification or perversion; or

(2) Sexual excitement, which shall be defined as the condition of the human male or female genitals when in a state of sexual stimulation or arousal; or

(3) Sado-masochistic abuse, which shall be defined as flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed."

Sec. 3. G.S. 14-190.1(c) as the same now appears, redesignated G.S. 14-190.1(d) by this act is hereby amended as follows:

(1) By deleting existing subsection (2);

(2) By deleting existing subsection (6);

(3) By placing a semicolon after the word "audience" appearing in the second line of subsection (4) and deleting the phrase, "and what effect, if any, it would probably have on the behavior of such people," following thereafter.

Sec. 4. G.S. 14-190.1(d), (e) and (f), as the same now appear are hereby redesignated as G.S. 14-190.1(e), (f) and (g) respectively.

Sec. 5. This act shall become effective upon ratification.

# GENERAL ASSEMBLY OF NORTH CAROLINA — 1973 SESSION

SENATE DR52679

Short Title: Anti-Obscenity Revisions.

Sponsor: Senator Britt.

(Public)

A BILL TO BE ENTITLED AN ACT TO REVISE THE NORTH CAROLINA ANTI-OBSCENITY STATUTE.  
The General Assembly of North Carolina enacts:

Section 1. G.S. 14-190.1 as the same now appears in the 1971 Supplement to Replacement Volume 1B of the General Statutes is hereby rewritten to read as follows:

"Obscene literature and exhibitions. — (a) It shall be unlawful for any person, firm or corporation to intentionally disseminate obscenity in any public place. A person, firm or corporation disseminates obscenity within the meaning of this Article if he or it:

- (1) Sells, delivers or provides or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or
- (2) Presents or directs an obscene play, dance or other performance or participates directly in that portion thereof which makes it obscene; or
- (3) Publishes, exhibits or otherwise makes available anything obscene; or
- (4) Exhibits, broadcasts, televises, presents, rents, sells, delivers or provides; or offers or agrees to exhibit, broadcast, televise, present, rent or to provide; any obscene still or motion picture, film, filmstrip, or projection slide, or sound recording, sound tape, or sound track, or any matter or material of whatever form which is a representation, embodiment, performance, or publication of the obscene.

"(b) For purposes of this Article any material is obscene if:

- (1) The material depicts or describes in a patently offensive way sexual conduct specifically defined by subsection (c) of this section; and,
- (2) The average person applying contemporary community standards relating to the depiction or representation of sexual matters would find that the material taken as a whole appeals to the prurient interest in sex; and,
- (3) The material taken as a whole lacks serious literary, artistic, political or scientific value; and
- (4) The material as used is not protected or privileged under the Constitution of the United States or the Constitution of North Carolina.

"(c) For the purposes of this Article, any writing, picture, record or other representation, play, dance or other performance, still or motion picture, film, filmstrip, projection slide or sound recording, sound tape or sound track or any matter or material or whatever form shall be obscene if it represents, embodies, exhibits, describes or narrates accounts of:

- (1) Sexual conduct, which shall be defined as acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, public area, buttocks or the breasts of a female for the purpose of sexual stimulation, gratification or perversion; or
- (2) Sexual excitement, which shall be defined as the condition of the human male or female genitals when in a state of sexual stimulation or arousal; or,
- (3) Sado-masochistic abuse, which shall be defined as flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

"(d) Obscenity shall be judged with reference to ordinary adults except that it shall be judged with reference to children or other especially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be especially designed for or directed to such children or audiences. In any prosecution for an offense involving dissemination of obscenity under this Article, evidence shall be admissible to show:

- (1) The character of the audience for which the material was designed or to which it was directed;
- (2) Whether the material is exploited so as to amount to pandering;
- (3) What the predominant appeal of the material would be for ordinary adults or a special audience;
- (4) Artistic, literary, scientific, educational or other social value, if any, of the material;
- (5) Appeal to prurient interest, or absence thereof, in advertising or in the promotion of the material.

Expert testimony and testimony of the author, creator or publisher relating to factors entering into the determination of the issue of obscenity shall also be admissible.

(e) It shall be unlawful for any person, firm or corporation to knowingly and intentionally create, buy, procure or possess obscene material with the purpose and intent of disseminating it unlawfully.

(f) It shall be unlawful for a person, firm or corporation to advertise or otherwise promote the sale of material represented or held out by said person, firm or corporation as obscene.

(g) Any person, firm or corporation violating the provision of this section shall be guilty of a misdemeanor and, unless a greater penalty is expressly provided for in this Article, shall be fined or imprisoned in the discretion of the court."

Sec. 2. This act shall become effective upon ratification.