



FAYETTEVILLE PUBLIC LIBRARY V. MURRAY

What is this case about?

The case challenged two sections of Arkansas's Act 372, a law passed in 2023:

- ▶ Section 1, which makes it a crime to “furnish a harmful item” to a minor.
- ▶ Section 5, which requires public libraries to adopt policies that allow people to challenge the “appropriateness” of materials available in county and municipal libraries.

The language in these sections creates uncertainty for library workers across the state. For example, “furnishing” is described as “presenting,” “providing,” “making available,” and “showing.” According to this language, librarians could risk criminal sanctions whenever a minor walks by a shelf in the adult section. Words like “harmful” and “inappropriate” are subjective and could be applied to science books, Shakespearean plays, and other materials that are constitutionally protected. Additionally, legal precedent¹ indicates that “harmful” may be assessed according to the youngest readers, sweeping materials that are constitutionally protected for older minors into the law’s scope.

It’s no surprise that a group of concerned publishers, booksellers, authors, library associations, libraries, library workers, and library users challenged Sections 1 and 5, saying they were unconstitutionally vague and overbroad. They were concerned that Act 372 would force Arkansas libraries to create and monitor “adult-only” sections and lead library workers to censor materials over fear of criminal charges.

These plaintiffs challenged the law before it took effect, which is a “facial” challenge. Facial challenges can prevent an unconstitutional law from taking effect, but courts sometimes dismiss such cases in favor of future “as-applied” challenges, which are fact-specific lawsuits filed after the law has taken effect and violated people’s constitutional rights.

Please note that the information provided here may not reflect the most recent legal updates. Always consult with an attorney for advice regarding your specific situation.

What happened in court?

In July 2023, the U.S. District Court for the Western District of Arkansas agreed with the plaintiffs, temporarily enjoining the state from implementing the law because it was likely unconstitutional. In December 2024, the District Court found that the act was unconstitutionally vague, permanently enjoining its enforcement.

In January 2025, Arkansas Attorney General Tim Griffin asked the Eighth Circuit Court of Appeals to review the District Court's ruling. The Eighth Circuit issued an opinion on July 30, 2026, reversing the decision. It vacated the injunction, clearing the way to implement and enforce Sections 1 and 5 of Act 372. The Eighth Circuit opinion had different things to say about the sections:

- ▶ **Section 1:** The Court held that the section threatening criminal punishment for "furnishing a harmful item to a minor" was not overbroad or vague. The Court opined that the terms have commonly understood meanings, that the language of the law is not facially overbroad, and that unconstitutional applications of the law should be assessed on a case-by-case basis. With respect to the vagueness claim, the Court did note that the statute is limited to "situations when a person knowingly furnishes an item to a minor knowing of the item's harmful character."
- ▶ **Section 5:** The court held that the plaintiffs lack standing to challenge the required procedural changes in libraries because the plaintiffs failed to show that they were, or will imminently be, harmed by the required policies. The court said that nothing in the law requires libraries to censor books, and that the plaintiffs' concerns are mere speculation at this point.

One judge on the three-judge panel wrote a separate concurring opinion that agreed with the main opinion, but also stated that there is no constitutional right to receive unfettered access to books in public libraries, citing the Fifth Circuit's *Little v. Llano County*² opinion. Concurring opinions do not have the force of law.

This decision follows another Eighth Circuit decision regarding an Iowa law that requires the removal of library books containing "descriptions or visual depictions of a sex act" from Iowa's public school libraries and imposes penalties on educators who do not comply.³ The Eighth Circuit allowed Iowa's law to go into effect, but it remanded the case back to the U.S. District Court for the Southern District of Iowa to assess the constitutionality of Iowa's law. In this case, the Eighth Circuit said that Section 1 of the Arkansas law is constitutional, but it left the door open to future legal challenges to unconstitutional applications of Section 5 ("as-applied" challenges).

What does this decision mean for Arkansas libraries?

This case is different than the Fifth Circuit's *Llano County* opinion. In *Llano*, plaintiffs sued after a Texas public library took books off its shelves, and the Fifth Circuit judges made general proclamations about the right to read in libraries. The *Llano* opinion impacted public libraries in Texas, Louisiana, and Mississippi. In contrast, this case is focused on one statute in Arkansas.

So, what should Arkansas library workers do to protect themselves from criminal liability and properly apply Act 372? Here are some steps to take:

- ▶ Do not panic. Wait for guidance from your state library association, library administration, and other library leaders. Just as it is important to comply with Act 372, it is also important to preserve library users' First Amendment rights—do not preemptively censor materials.
- ▶ Document instances of censorship if any arise. If you are concerned that constitutionally-protected materials are being removed or segregated from the library collection, note your concerns.
- ▶ Be transparent about issues that arise in your library. For instance, if appropriate, let the public know when books are removed from library collections or when they are relocated to comply with Act 372.
- ▶ Ask for clarification from your library's legal counsel and administrators about how to interpret the law. Don't guess about how to comply with the law—make sure you know what steps to take.
- ▶ Ensure that your library has clear viewpoint-neutral policies that comply with the law, and educate your community about what your collection development, reconsideration, and weeding practices are.
- ▶ If censorship efforts impact your library, contact ALA's Office for Intellectual Freedom, PEN America, and local library associations and anti-censorship groups in your state, including the Arkansas Intellectual Freedom Helpline.⁴ Report censorship⁵ so that we can all support the right to read.

How can you support Arkansas libraries?

If you are concerned about the Eighth Circuit decision and its impact on access to information in Arkansas libraries, you can help in several ways.

If you live in Arkansas:

- ▶ Be vigilant. Know what's going on in your libraries, bookstores, and other local information sources. The scope of this law stretches beyond

libraries. It could impact booksellers, educators, and anyone who “furnishes” information to minors.

- ▶ Write a letter to your local library letting them know that you support the right to read and support library workers upholding the First Amendment. Knowing that they are not alone and have the support of their community makes a difference.
- ▶ Let your Arkansas lawmakers know that you support the right to read and condemn laws that threaten access to information.
- ▶ Join (or start) a local friends of the library group, show up for local government meetings, run for a library board or school board, or donate to the Arkansas Library Association⁶ and other organizations protecting the freedom to read in your state.
- ▶ If materials are being censored in your library, contact the Arkansas Intellectual Freedom Helpline or reach out to the Arkansas Library Association.

If you live anywhere else:

- ▶ Let your lawmakers know that you support the right to read and condemn laws that threaten access to information.
- ▶ Join (or start) a local friends of the library group, show up for local government meetings, run for a library board or school board, and donate to ALA⁷ and other organizations working to support libraries and library workers across the nation.
- ▶ Support right to read legislation in your state. This legislation has the potential to protect library collections and the people who work to maintain them.
- ▶ Join Unite Against Book Bans to get involved and learn about ways you can support your library and defend your freedom to read. Visit [UniteAgainstBookBans.org](https://uniteagainstbookbans.org) to find resources and more.

1. <https://law.justia.com/cases/federal/district-courts/FSupp2/454/819/2317193/>
2. <https://www.oif.ala.org/what-now-libraries-after-little-v-llano-county/>
3. <https://www.oif.ala.org/prh-v-robbins-iowa-safe-schools-v-reynolds/>

4. <https://docs.google.com/forms/d/e/1FAIpQLSct6yTuo235GEMPabGaGQJ3I8jV-GkoKX9XZd2WroM1fnDD4A/viewform>
5. <https://www.ala.org/tools/challengesupport/report>
6. <https://arlib.org/>
7. <https://ec.ala.org/donate>



Law for Librarians

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