

# Planning and Development Committee

## JOINT FAVORABLE REPORT

**Bill No.:** SB-148  
**Title:** AN ACT MAKING CERTAIN TERMS IN ELECTRONIC BOOK AND DIGITAL AUDIOBOOK LICENSE AGREEMENTS OR CONTRACTS UNENFORCEABLE.  
**Vote Date:** 3/01/2024  
**Vote Action:** JF  
**PH Date:** 2/21/2024  
**File No.:**

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### SPONSORS OF BILL:

Planning and Development Committee

### REASONS FOR BILL:

This bill would prohibit publishers of electronic books and digital audiobooks from including certain restrictions in contracts or license agreements with libraries in the state. Currently, libraries must obtain these electronic materials directly from publishers, these publishers then place various restrictions on the electronic materials that serve as a burden for libraries. Librarians have spoken out about how these restrictions raise costs, regulate the supply of digital materials, and impact the borrowers of these materials. By removing these restrictions, libraries will have more power in obtaining and maintaining electronic materials.

### RESPONSE FROM ADMINISTRATION/AGENCY:

[Solicitor General, State of Connecticut, Joshua Perry](#) strongly supports SB 148 as it promotes “careful and fair spending of public funds on eBooks, vindicating important state interests through strengthening key government institutions.” The Attorney General’s Office is prepared to defend these bills if they were to become law. Perry states

“Connecticut, through its sovereign police powers, has long established, regulated, and funded our state’s libraries. Municipalities can only establish libraries because the State gave them that power. The State regulates the terms of libraries’ lending to ensure broad public access to knowledge. And the State funds important aspects of state and local libraries’ work. The bills regulate how Connecticut government spends public money in the public interest, not how private publishers do business across state lines.”

[CT State Library, State Librarian, Deborah Schander](#) supports SB 148 providing CT libraries more power in negotiations with publishers regarding electronic materials. The restrictions publishers impose force libraries to lease electronic materials as opposed to traditional purchasing. These leases increase costs to libraries as once these leases end libraries must engage in a new lease. Limitations are imposed on whom libraries can lend these materials and publishers can refuse to lend materials to libraries once the original lease ends. One copy of an eBook can cost up to six times more than a consumer pays, and access to this electronic material expires after two years or once the material has been borrowed 26 times. Once expired, the library must renew for another two years for whatever price the publisher sets. Costs add up when this process is done for each piece of material. CT public libraries spend an estimated \$3.5 million on eBook and audiobook content each year, which they do not own or can keep.

## **NATURE AND SOURCES OF SUPPORT:**

[West Haven Library, Executive Director, Colleen Baillie](#) supports the bill because wait times for eBooks are often upwards of 6 months or more. A specific book costs the library \$55 (for a 2-month lease) whereas a physical copy costs \$18. In the last 3 years, the West Haven public library has spent over \$12,000 on leasing 276 electronic titles, 84 of which are no longer available due to expiration. Last year 32% of the library's material circulation was digital, a 10% increase from the year prior, libraries are struggling to keep up with the demand for digital materials. Fair pricing and contracts would create savings for libraries and also increase the supply of these materials for the public.

[Executive Director, Authors Alliance, David Hansen](#) supports the bill as authors want their works available to readers in the short and long term. While copyright law is important, for eBooks publishers “have been able to rewrite the rules and leverage their immense market power by using license terms that dictate how libraries can make eBooks available to readers.” This limits the materials available for readers, thus impacting authors. The Maryland bill “required” publishers to license electronic materials to libraries on certain terms, SB 148 takes a different approach. Hansen cites “By regulating the types of licenses that publicly funded libraries can enter into, SB148 leaves publishers and other rightsholders entirely free to make their own choices about whether and how to license eBooks in Connecticut. No publisher is required to license anything.”

[Senator, Connecticut General Assembly, Tony Hwang](#) supports SB 148 due to the unfair balance of negotiation between libraries and publishers. The restrictions in the leases and access the libraries possess create a costly and burdensome process for local libraries. Since libraries provide free public information to citizens “The state has an interest in preserving their ability to operate and provide such essential services to Connecticut residents.” Prohibiting libraries from engaging in a contract with publishers that implement restrictions would provide more negotiation power for libraries.

[Vice President/President-Elect, CT Library Association, Scott C. Jarzombek](#) supports the legislation due to the restrictions set upon libraries costing significant portions of their budgets and leading to a shortage for consumers. Jarzombek states “this legislation has nothing to do with copyright. It is a matter of contract law.”

[CEO, The Ferguson Library, Alice Knapp](#) supports the bill because since libraries began circulating e-books they have faced barriers imposed by publishers. Publishers ignore libraries' protests to inflate costs for best-selling materials and the lease terms of 26 borrows. As publicly funded entities libraries must spend wisely, but these restrictions create burdens for Connecticut libraries. This bill would not infringe upon federal copyright law like legislation in Maryland since SB 148 is "grounded in Connecticut Unfair Trade Practices law (Chapter 735a, Section 42-110b).

[President, Connecticut Library Association, Sarah McCusker](#) supports the bill as libraries have struggled to keep up with the rising demand for electronic materials since their inception. Now that these materials are prevalent, libraries simply can not afford to purchase electronic materials. This leads to a limited supply of these materials; patrons are forced to endure inflated wait times that often span months and sometimes over a year. Libraries want the power to negotiate terms and for terms to mirror the process used for physical media.

[Executive Director, Connecticut Library Consortium, Ellen Paul](#) supports the bill as currently the consortium is unable to provide discounts on electronic or audio versions of literature to Connecticut libraries. These libraries have no leverage in negotiations, being forced to allocate large sums of tax-paying dollars for temporary access to electronic materials from publishers. Paul states that the state has the power to regulate contracts, especially those that utilize public funding, without infringing on copyright law.

[Policy Fellow, Ebook Study Group, Juliya Ziskina](#) supports SB 148 as it would assist and protect the interest of Connecticut libraries and their patrons. The bill would present a viable pathway for Connecticut to address the inequalities in bargaining power between libraries and publishers. In contrast to other states' attempts to tackle this issue, SB 148 differs since "it does not implicate federal copyright law." The current licensing market prevents Connecticut libraries from providing equitable access to materials. The short-term leases and inflated costs affect the supply that these libraries can obtain. Ziskina states that this bill differs from Maryland's and New York's attempts to address this issue since SB 148 "the goal of this bill is to firmly ground these eBook contracts and licenses under Connecticut state law."

The 25 pieces of testimony below support SB 148 due to the increased supply and savings it would generate for their respective libraries. These testimonies all have specific figures of the budget, supply, costs, and terms/restrictions emplaced by publishers and the resulting effects on specific libraries. They express how difficult it is to maintain a collection of electronic materials due to the inflated costs and limited leases that publishers offer to libraries.

[Wilton Library Association, Head of Materials Management, Melissa Baker](#)  
[Bloomfield Public Library, Chairperson Board of Trustees, Ava Biffer](#)  
[Portland Public Library, Library Director, Jennifer Billingsley](#)  
[Director, Cragin Memorial Library, Kate Byroade](#)  
[Director, Putnam Public Library, Priscilla Colwell](#)  
[Library Director, Terryville Public Library, Gretchen DelCegno](#)  
[Library Director, Jonathan Trumbull Library, Lindsay Delligan](#)  
[Deputy Town Librarian, Fairfield Public Library, Jan Fisher](#)  
[Library Director, Avon Free Public Library, Glenn Grube](#)  
[Claudia Gwardyak](#)

[Chair, LION E-Book Committee, Rebecca Harlow](#)  
[M.L.S. Head of Circulation Services, Southington Public Library, Shelley Holley](#)  
[Katie Huffman](#)  
[Director of Library Services, West Hartford Public Library, Laura Irmscher](#)  
[Library Director, Brookfield, Caroline Ford](#)  
[Director, Bloomfield Public Library, Elizabeth Lane](#)  
[Library Director, Blackstone Library, Katy McNicol](#)  
[Librarian, Darien Library, Kristen Orth](#)  
[Circulation Supervisor, Bristol Public Library, Mayra Quinones](#)  
[Asst. Library Division Manager, Bloomfield Public Library, Diah Seccareccia](#)  
[Elaine Shapiro](#)  
[Executive Director, Essex Library, Ann Thompson](#)  
[Assistant Director, Karla Umland](#)  
[Assistant Library Director, Bloomfield Public Library, Allison Wilkos](#)  
[Director, Easton Public Library, Lynn Zaffino](#)

These 31 pieces of testimony below express support for the legislation since the costs of leasing digital materials are significantly more than purchasing physical copies. The limited supply of these digital materials leads to long wait times for borrowers and a failure to accommodate individuals who need electronic materials.

[Case Memorial Library, Nina Bartłomiejczyk](#)  
[Wethersfield Library, Library Director, Brook Berry](#)  
[Christine Bradley](#)  
[Director of the Russell Library, Ramona Burkey](#)  
[Executive Director, Bibliomation, Carl DeMilia](#)  
[Mary J. Etter](#)  
[Hobart Professor of the Humanities, Trinity College, Christopher Hager](#)  
[Shiao-Lan Haines](#)  
[Library Director, Booth & Dimock Memorial Library, Margaret Khan](#)  
[Marianne Lorio](#)  
[Library Director, Lucy Robbins Welles Library, Lisa Masten](#)  
[Chairperson, Canton Public Library, Karol McAllister](#)  
[Julie Yulo-Medeiros](#)  
[Senior Adult Services Librarian, Ridgefield Library, Christie Mitchell](#)  
[Librarian, Wilton Library Association, Cheryl Morgenstern](#)  
[President, Avon Free Library BOD, Nicole Nunziata](#)  
[Ann T. Percival](#)  
[Youth Services Librarian, Katryna Pierce](#)  
[President and CEO, Hartford Public Library, Bridget Quinn](#)  
[Teen Services Librarian, Ridgefield Library, Erica Redfern](#)  
[School Librarian, E.C Adams Middle School, Cheryl Robertson](#)  
[Head of Collection Management, Lucy Robbins Welles Library, Dorothy Russell](#)  
[Jeanmarie Ryan](#)  
[Technical Services Specialist, Stratford Library, Christina Turiano Sander](#)  
[Head of Information Technology, Stratford Library Association, Kate Sheehan](#)  
[President, CT Reading Association, Jennifer Slifer](#)  
[Colette Slover](#)

[Karen Tatarka](#)  
[Rev., Mary Thies](#)  
[Carol Walters](#)  
[Mara Whitman](#)

The following 16 pieces of testimony all support the bill due to the accessibility created for patrons looking to access electronic materials. Individuals with disabilities, language barriers, students, and many others rely upon eBooks and audiobooks to consume media available to them from libraries. When libraries and schools are constrained in the supply of these electronic materials they can possess, due to the restrictions that publishers impose, these patrons suffer.

[Olivia Blake](#)  
[Alicia Cook](#)  
[Adult Services Librarian, West Haven Public Library, Taylor Cordova](#)  
[Cragin Memorial Library Board of Trustees](#)  
[Vice President, CASL, Valerie DiLorenz](#)  
[Youth Services Librarian, Bloomfield Public Library, Nicole Dolat](#)  
[MSLIS, Windham Middle School, Valerie Grabek](#)  
[School Library Media Specialist, New Haven Public Schools, Anneliese Juergensen](#)  
[Library Media Specialist, Western Middle School, Pia Ledina](#)  
[Director, Simsbury Public Library, Lisa Karim Miceli](#)  
[Former Fairfield Town Librarian, Helene Murtha](#)  
[Leona Mae Page](#)  
[Library Aide, Wamogo Region 6 High School, Sarah Robertson](#)  
[Jen Schaefer](#)  
[Library Media Specialist, Region 10 Schools, Kelly Summa](#)

These 4 pieces of testimony expressed general support for the bill

[Joni Celmer](#)  
[Joanna Cistulli](#)  
[Karen Manternach](#)  
[Maude McGovern](#)

[There was one anonymous testimony in support](#)

#### **NATURE AND SOURCES OF OPPOSITION:**

[Board Member, Independent Book Publishers Assn., Kurt Brackob](#) opposes SB 148 as “d, this bill would violate our members’ rights under federal copyright law and the United States Constitution by regulating the licensing terms from copyright owners to libraries for eBook and other electronic formats.” Provisions in the bill would attempt to weaken intellectual property rights and contrast the federal Copyright Act. Similar legislation in Maryland faced legal challenges as a court recognized in the case AAP v. Frosh, , “[i]t is clear from the text and history of the Copyright Act that the balance of rights and exceptions is decided by Congress alone” and “[s]triking the balance between the critical functions of libraries and the

importance of preserving the exclusive rights of copyright holders... is squarely in the province of Congress and not this Court or a state legislature.”

[Legal Fellow, Hudson Institute Forum for Intellectual Property, Devlin Hartline](#) opposes the bill as it would violate federal copyright law. Hartline also mentions the Maryland legislation that was struck down by a district court as it was deemed in conflict with federal law.

[Senior Vice President Government Affairs, Assoc. of American Publishers, Shelley Husband](#) opposes the legislation as it would harm the livelihoods of authors. Mentions that there is a large utilization of “digital check-outs” that allow patrons to access an array of literary works for free. Husband also explains how the legislation may violate the federal Copyright Act and other states have faced legal cases when passing similar legislation.

[CEO, Copyright Alliance, Keith Kupferschmid](#) opposes the bill as it would conflict with federal copyright law and harm authors, publishers, and creators. Kupferschmid cites the Maryland case and Governor Kathy Hochul of New York vetoing a similar bill as evidence that state legislatures struggle to implement legislation similar to SB 148.

[Senior Vice President & General Counsel, News/Media Alliance, Regan Smith](#) opposes the legislation due to potential harm done to publishers and media creators. Smith mentions the challenges that other state legislatures faced in enacting similar legislation.

[The Authors Guild](#) opposes the legislation as it would impact their members (authors) earnings. Currently, authors make modest amounts that fall below the federal minimum of \$7.25/hour. The guild states that at the start of the Covid19 pandemic publishers made electronic resources available to libraries and schools.

**Reported by: Mario Volpe**

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