

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY

MISSOURI ASSOCIATION OF
SCHOOL LIBRARIANS, et al.,

Plaintiffs,

V.

MELESA JOHNSON, et al.,

Defendants.

Case No. 2316-CV05732

Division 6

FILED
DIVISION 6

17-Nov-2025 14:43

CIRCUIT COURT OF JACKSON COUNTY, MO

BY

JEP

ORDER AND FINAL JUDGMENT

In 2022, the Missouri General Assembly passed Senate Bill 775. This bill was signed by the Governor on June 20, 2022 and became effective August 28, 2022. Among

S.B. 775's newly-enacted provisions was section 573.550, RSMo, which – in a clear

attempt to go beyond the already-existing statutory prohibition against providing obscene materials to minors¹ – creates a new crime: The Class A Misdemeanor of “Providing Explicit Sexual Material to a Student.” Section 573.550 provides as follows:

573.550. Providing explicit sexual material to a student, offense of — penalty — definitions. — 1.

A person commits the offense of providing explicit sexual material to a student if such person is affiliated with a public or private elementary or secondary school in an official capacity and, knowing of its content and character, such person provides, assigns, supplies, distributes, loans, or coerces acceptance of or the approval of the providing of explicit sexual material to a student or possesses with the purpose of providing, assigning, supplying, distributing, loaning, or coercing acceptance of or the approval of the providing of explicit sexual material to a student.

2. The offense of providing explicit sexual material to a student is a class A misdemeanor.

¹ See § 573.040, RSMo.

3. As used in this section, the following terms shall mean:

(1) **"Explicit sexual material"**, any pictorial, three-dimensional, or visual depiction, including any photography, film, video, picture, or computer-generated image, showing human masturbation, deviate sexual intercourse as defined in section [566.010](#), sexual intercourse, direct physical stimulation of genitals, sadomasochistic abuse, or emphasizing the depiction of postpubertal human genitals; provided, however, that works of art, when taken as a whole, that have serious artistic significance, or works of anthropological significance, or materials used in science courses, including but not limited to materials used in biology, anatomy, physiology, and sexual education classes shall not be deemed to be within the foregoing definition;

(2) **"Person affiliated with a public or private elementary or secondary school in an official capacity"**, an administrator, teacher, librarian, media center personnel, substitute teacher, teacher's assistant, student teacher, law enforcement officer, school board member, school bus driver, guidance counselor, coach, guest lecturer, guest speaker, or other nonschool employee who is invited to present information to students by a teacher, administrator, or other school employee. Such term shall not include a student enrolled in the elementary or secondary school.

On February 16, 2023, the Missouri Association of School Librarians and the Missouri Library Association filed this lawsuit against Jean Peters Baker, then the elected prosecuting attorney of Jackson County, Missouri "in her official capacity as Jackson County Prosecuting Attorney and on behalf of a Defendant Class of all Missouri Prosecuting Attorneys." The current elected prosecutor, Melesa Johnson, has since been substituted for Ms. Peters Baker.

Plaintiffs' petition is in three counts. Count I alleges that section 573.550 is unconstitutionally vague in violation of Missouri's Due Process Clause, Article 1, Section 10 of the Missouri Constitution. Count II alleges that the statute violates the free

speech guarantees found in Article 1, Section 8. Lastly, Count III seeks a declaratory judgment determining that the statute is unconstitutional under each of these sections.

Plaintiffs also seek a permanent injunction prohibiting the enforcement of section 573.550, and, alternatively, entry of a “declaratory judgment defining and clarifying how and when” the statute applies. On June 26, 2023, the Court granted plaintiffs’ motion to certify a defendant class of all Missouri prosecuting attorneys, and designated the Jackson County Prosecuting Attorney as the Class Representative.

On July 28, 2023, the Cole County Prosecuting Attorney removed this action to the United States District Court for the Western District of Missouri, where it remained until it was remanded back to this Court. In the interim, the State of Missouri and then Attorney General Andrew Bailey² requested leave to intervene as defendants. Without objection, the Court granted this request on March 25, 2024.

The parties engaged in discovery, and the Court took up and ruled motions regarding discovery and a motion filed by the Texas County Prosecuting Attorney asking the Court to decertify the class. Thereafter, plaintiffs and defendant intervenors Andrew Bailey and the State of Missouri (hereinafter “the defendant intervenors” or “intervenor defendants”) each filed motions for summary judgment on July 20, 2025. Briefing on the motions pursuant to Rule 74.04 commenced and concluded, and on October 8, 2025, the Court heard oral argument on both of them and took them under advisement. All parties agreed at oral argument that the case is properly disposed of through summary judgment.

² Andrew Bailey was subsequently appointed to serve as Co-Deputy Director of the Federal Bureau of Investigation, and Catherine L. Hanaway was appointed Missouri Attorney General by Governor Mike Kehoe on or about August 19, 2025. She took office on September 8, 2025, and, as Attorney General acting in her official capacity, is automatically substituted in Mr. Bailey’s place as one of the intervenor defendants. Supreme Court Rule 52.13(d).

Having considered the parties' respective motions,³ and for the reasons set forth in them and their accompanying suggestions and exhibits, the Court concludes as follows:

1. Plaintiffs have standing to bring this action for declaratory relief and plaintiffs' requests for declaratory relief are appropriate here. *BOMA v. City of St. Louis*, 341 S.W.3d 143, 147-48 (Mo. banc 2011).
2. Section 573.550 is unconstitutionally vague in violation of the Due Process Clause found in Article 1, Section 10 of the Missouri Constitution and, as such, is facially invalid and void.
3. Section 573.550 is facially invalid because it is unconstitutionally overbroad in violation of Article 1, Section 8 of the Missouri Constitution and, as such, is void for this additional reason.

Having so concluded, the Court enters the following judgment:

1. Plaintiffs' motion for summary judgment is GRANTED, and summary judgment is hereby entered in favor of plaintiffs on Counts I, II, and III of their Petition for Injunctive and Declaratory Relief. Section 573.550, RSMo is hereby declared to be unconstitutional on its face under both Article 1, Section 8, and Article 1, Section 10 of the Missouri Constitution, and may therefore not be enforced.

³ The Court hopes that the relatively conclusory nature of this Order and Judgment will not be seen by the parties as any indication that the Court has not fully considered their briefing and weighed their arguments. The opposite is true. The issues in the parties' respective motions for summary judgment have been well and extensively briefed and argued. If time was not a factor, the Court would not only luxuriate in these arguments as it has, but would also issue a lengthy Order and Judgment meticulously demonstrating its evaluation of each of them. Unfortunately, time *is* a factor, as the undersigned's resignation from his position as a Circuit Judge is effective at the end of this month. Moreover, the Court recognizes – now more than ever – its status as a “way station” to the Supreme Court of Missouri. What the parties here need is a *decision* that can be fully and finally considered by an appellate court that – consistent with its standard of review – gives no deference to what this Court thinks or why. *Wilson v. City of St. Louis*, 662 S.W.3d 749, 754-55 (Mo. banc 2023).

2. A permanent injunction is accordingly entered against all defendants permanently prohibiting them from enforcing the provisions of section 573.550, RSMo.
3. Defendant intervenors' motion for summary judgment is DENIED.
4. Costs are assessed against defendants.
5. All other requests for relief are DENIED.
6. If plaintiffs wish to retrieve the books submitted to the Court as exhibits in hard copy form, they shall do so by or before November 24, 2025; otherwise these exhibits will be disposed of by the Court.

IT IS SO ORDERED.

November 17, 2025



J. DALE YOUNGS, Circuit Judge

Pursuant to Supreme Court Rule 103.09, notice of the entry of the above Order/Judgment has been provided through the electronic filing system to counsel of record.

Joanna Perez, Law Clerk, Division 6