

UPDATE ON STATE LEGISLATIVE EFFORTS ON LIBRARY DIGITAL BOOKS

April 4, 2022

There has been much activity in state legislatures in the past months. Eight states have active legislation or definitive efforts to improve digital book access for libraries. Most prominent is Maryland because it is unique in having enacted legislation and a law that is preliminarily enjoined by the U.S. District Court for the District of Maryland. The other currently engaged states are Connecticut, Illinois, [Massachusetts](#), [Missouri](#), New York, Rhode Island, and [Tennessee](#).

The latest major development is the ruling by Federal Judge Deborah L. Boardman who approved the motion for a [preliminary injunction](#) on Maryland's law on February 16. Hence, the Maryland law is now suspended, pending further action by the court. A [hearing](#) on this lawsuit, Association of American Publishers (AAP) v. Brian E. Frosh (Attorney General of Maryland) took place on February 7. Prior to the hearing, AAP and the Attorney General of Maryland provided [submissions](#) to the court. Although this ruling is not favorable for libraries, note that it is also not binding beyond Maryland. A federal judge in another jurisdiction could well decide differently on the same law, or certainly on a different one.

Bills are currently in play in the other 7 states. There have been hearings in [Missouri](#), [Connecticut](#), [Illinois](#), [Rhode Island](#), and [Massachusetts](#). At the end of December 2021, Gov. Hochul [vetoed](#) New York legislation, and N.Y. library advocates are [reportedly](#) planning to re-introduce at some point.

In terms of awareness, education, and the visibility and reputation, the various state actions have been quite favorable for libraries. Invariably, state legislators have expounded on the value, importance, and positive feelings for libraries and library workers in their communities. They do not look kindly on the publishers' business models. Indeed, in two recent public hearings, in [Connecticut](#) and [Rhode Island](#), the legislators take AAP to task, exhibiting skepticism and even hostility towards the AAP and the industry it represents.

The library community also has new public support from several important officials. For example, during the Maryland hearing, Judge Boardman said "It does seem to me that there is inequity and an unfairness on how publishers have treated public libraries." Here are several public statements by Brian E. Frosh, Attorney General of Maryland, made during the course of the lawsuit:

1. “Publishers capitalize on the digital revolution at libraries’ [expense](#).”
2. “We [Office of the Attorney General of Maryland] think publishers should not be able to unfairly take advantage of Maryland public libraries. We will continue to pursue fair treatment for Maryland public [libraries](#).”
3. “Many publishers have exploited the rapid advancement of digital technology to discriminate against public libraries when licensing e-books and [audiobooks](#).”
4. “Technology has enabled publishers to create two classes of customers—those who can afford to buy electronic literary products and public libraries who serve those who cannot—while charging the latter substantially more for the same [product](#).”

And of course there is the legislative record, such as the unanimous vote by the Maryland legislature and only one opposing vote in N.Y. Also recently, the Illinois General Assembly [Committee](#) on Consumer Protection voted 6-0 to advance its bill.

ALA encourages and supports continued advocacy at the state level, though of course such decisions must be made by library advocates in the respective states. ALA is developing recommendations and guidance to aid state efforts, especially looking ahead to the 2023 legislative sessions. And a reminder, ALA provides various tools and resources on [state and local advocacy](#); and, recently, ALA released a State Legislative [Toolkit](#). We ask you to keep Megan Cusick (mcusick@ala.org) and Alan Inouye (ainouye@alawash.org) updated on library digital book advocacy developments in the states.

For the latest, join us at a session on library digital books at the 2022 ALA Annual Conference in Washington, D.C. Meanwhile, look for news and information on Twitter (@LibraryPolicy), in *American Libraries* magazine, in Andrew Albanese’s articles in *Publishers Weekly*, and in Alan Inouye’s public policy update, which is typically posted on the ALA Council list; you can also ask him to add you to the direct distribution list.