



March 9, 2009

The Hon. Michael J. Madigan  
Speaker of the House  
Illinois House of Representatives  
300 State House  
Springfield, IL 62706

By Fax: (217) 524-1794

Re: Opposition to House Bill 4078

Dear Mr. Speaker,

I am writing in opposition to House Bill 4078. The American Booksellers Foundation for Free Expression is the bookseller's voice in the fight against censorship. It represents booksellers in Illinois and throughout the United States.

H.B. 4078 was introduced following the announcement that former Governor Blagojevich had signed a lucrative book contract. It would require a public official convicted of a crime to forfeit money received for any published account of the crime for which he was convicted. While the desire to prevent Blagojevich from profiting from possible criminal conduct is understandable, H.B. 4078 probably violates the First Amendment as detailed in the attached memo from Media Coalition. It would also deprive Illinois residents of books that make an important contribution to public debate.

First-hand accounts of crime by convicted felons and their collaborators have long been an integral part of our national discourse on crime—its causes, its nature and its consequences—and the criminal justice system through which society passes judgment on those who have committed crimes. In addition, many disgraced public officials, including Ulysses S. Grant and Richard Nixon, have written important books touching on the charges of misconduct against them.

By effectively declaring that works by convicted public officials are undeserving of constitutional protection, H.B. 4078 would discourage the publication and sale of books that are of obvious public importance, and deprive the public of

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information that it demands and is entitled to receive, and that convicted felons are entitled to disseminate and be compensated for.

The U.S. Supreme Court has already declared that laws like H.B. 4078 violate the First Amendment. In 1991, the New York legislature enacted a law that sought to ensure that criminals like David Berkowitz, who called himself “the Son of Sam,” did not profit from the sale of the stories of their criminal careers. However, the Supreme Court declared that a statute “is presumptively inconsistent with the First Amendment if it imposes a financial burden on speakers because of the content of their speech, *Simon & Schuster, Inc., v. The New York Crime Victims Bd.*, 502 U.S. 105 at 115 (1991).

Democracy depends on the unfettered right to publish and sell books all topics of public import, including crime and criminal justice.

For this reason, we oppose H.B. 4078.

Sincerely yours,

Chris Finan  
President

cc: House Committee on State Government Administration