

HB 900

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Bill Topic: Appropriate Books in School Libraries

Bill Summary: This "Library Bill" requires the Texas State Library and Archives Commission (TSLAC) to adopt standards for school library collection development with approval from the State Board of Education (SBOE). Vendors would be required to submit to TEA a list of library material rated as sexually explicit or sexually relevant material sold to a school and still in active use by the school. TEA would be required to post this list on their website. Additionally, this bill would permit TEA to review each material not rated by a vendor as sexually relevant or sexually explicit material. If TEA determines that the material is required to be rated as sexually relevant or sexually explicit material, TEA must notify the vendor in writing of their duty to rate the material according to TEA's corrected rating and to notify TEA of the action taken. TEA would be required to publish on the agency's website a list of vendors that fail to comply with provisions of the bill. However, TEA would be allowed to remove a vendor that petitions to be removed from the list only if the agency deems that the vendor has taken appropriate action to rate or change the rating of a library material. Schools must adhere to standards for school library collection development adopted by TSLAC, and provide a report upon content review of certain school library materials. Schools may not allow a student to checkout, reserve, or otherwise use outside the library any material that the vendor has rated as sexually relevant unless the school first obtains written consent from the student's parent or guardian. School staff are not liable for any claim or damage resulting from a library material vendor's violation to follow required guidelines.

Bill Resources:

- [Legislation](#)

Bill Effective Date: This Act takes effect September 1, 2023.

Bill Key Provisions, Costs, and Timelines:

I. Key Provisions

A. What types of library materials does this bill address?

1. “Sexually relevant material” - any communication, language, or material, including a written description, illustration, photographic image, video image, or audio file, other than library material directly related to the required curriculum standards that describes, depicts, or portrays sexual conduct.
2. “Sexually explicit material” - has the same basic foundation as sexually relevant material but it portrays sexual conduct in a way that is patently offensive, meaning so offensive on its face as to conflict with current community standards of decency.

B. What is the Texas State Library and Archives Commission (TSLAC) required to do?

Not later than January 1st, 2024, TSLAC is required to **adopt standards for school library collection development**, with approval from the State Board of Education (SBOE), that must:

1. be reviewed and updated at least once every 5 years; and
2. include a collection development policy that:
 - a. prohibits the possession, acquisition, and purchase of:
 - i. material defined as harmful ([Section 43.24, Penal Code](#));
 - ii. rated as sexually explicit by the selling library material vendor ([Section 43.21, Penal Code](#));
 - iii. or that is pervasively vulgar or educationally unsuitable (Pico v. Board of Education, 1982);
 - b. recognizes that obscene content is not protected by the First Amendment;
 - c. is required for all library materials;
 - d. recognizes that parents are the primary decision makers regarding a student’s access to library material;
 - e. encourages schools to provide library catalog transparency;
 - f. recommends schools communicate effectively with parents regarding collection development; and
 - g. prohibits the removal of material based solely on the ideas contained in the material or the personal background of the author or of the characters.

C. What are library material vendors required to do?

Library material vendors, defined as any entity that sells library material to public primary or secondary schools, are required to:

1. perform a contextual analysis of all material, as outlined under [Section 35.0021 \(Rating Guidelines\)](#), to determine whether a material is sexually explicit, sexually relevant, or has no rating;

2. not sell any materials to a school unless the vendor has issued appropriate ratings regarding sexually explicit and sexually relevant material previously sold to a school;
3. not sell sexually explicit material to a school and issue a recall for all copies of sexually explicit material sold to a school and still in active use by the school;
4. develop and submit to TEA:
 - a. not later than April 1, 2024, a list of any sexually explicit or relevant materials sold by the vendor to a school and still in active use by the school before April 1, 2024.
 - b. not later than September 1 of each year, provide TEA an *update* of any sexually explicit or sexually relevant materials sold by the vendor to a school and still in active use by the school *during the preceding year*
 - c. within 60 days of receiving a notice from TEA of material deemed to have been incorrectly rated, rate material according to TEA's corrected rating and notify TEA of the action taken

D. What is the Texas Education Agency (TEA) required to do?

TEA is required to:

1. post each list, submitted by vendors, of material rated as sexually explicit or sexually relevant;
2. notify the vendor in writing, if, upon review, TEA determines that a book is required to be rated as sexually explicit or sexually relevant material. The notice must include information on the vendor's duty to rate the material according to TEA's corrected rating and to notify TEA of the action taken, no later than 60 days after receiving the notice; and
3. post a list of vendors that fail to comply with the previous requirement (TEA may remove a vendor from the list if the vendor has taken appropriate action to rate or change the rating of a material).

E. What are schools required to do? Are school staff liable for any claim or damage resulting from library material?

Schools are required to:

1. adhere to standards for school library collection development adopted by TSLAC (adopted by January 2024) when developing or implementing their library collection development policies;
2. **not later than January 1st of every odd-numbered year (starting in 2025):**
 - a. review the content of each library material in the catalog of their school library rated as sexually relevant by the vendor;

- b. determine, in accordance with the school's policies on approval, review, and reconsideration of school library materials, whether to retain the material rated as sexually relevant in the school library catalog; and
- c. provide a report, either posted online or kept at the district or school's central administrative building, that includes:
 - i. the title of each material in the catalog of their school library rated as sexually relevant by the vendor;
 - ii. the school's decision on whether to retain the material or not; and
 - iii. the school or campus where the material is currently located
- 3. not allow a student to checkout, reserve, or otherwise use outside the library any material that the vendor has rated as sexually relevant unless the school first obtains written consent from the student's parent or guardian.
- 4. return any recalled sexually explicit materials once the list is out in April 2024 and then ensure they do not purchase any other sexually explicit materials going forward.
- 5. ensure they do not purchase materials from any library material vendor who has been identified as failing to comply with the law and is placed on TEA's list.

F. Are school staff liable for any claim or damage resulting from library material?

School staff are not liable for any claim or damage resulting from a library material vendor's violation to follow required guidelines (outlined in section B above).

G. What are a parent or guardian's rights in regards to this library bill?

Before a school can allow a student to reserve, check out, or use sexually relevant materials, parents or guardians must provide written consent.

II. Charter Implementation Costs

- **What is the anticipated cost of the legislation?:**

It is assumed school districts would incur some costs to implement provisions of the bill related to content review of certain school library materials, but funding is not dedicated to this expense at this time.

III. Charter Compliance Timeline

- **What is the timeline for implementation?:**

Not later than:

- January 1st, 2024: The Texas State Library and Archives Commission (TSLAC) shall adopt the standards for school library collection development (as outlined in Section A of Key Provisions).
- April 1st, 2024: Each vendor will submit a list of material rated as sexually explicit or sexually relevant sold by the vendor to a school and still in active use by the school before April 1, 2024 (as outlined in Section B of Key Provisions).
- September 1st, 2024: Each vendor will submit an updated list of material rated as sexually explicit or sexually relevant sold by the vendor to a school and still in active use by the school during the preceding year (as outlined in Section B of Key Provisions).
- January 1st, 2025: Each school district shall provide a report, either posted online or kept at the district or school's central administrative building, that includes (as outlined in Section D of Key Provisions):
 - the title of each material in the catalog of their school library rated as sexually relevant by the vendor;
 - the school's decision on whether to retain the material or not; and
 - the school or campus where the material is currently located.