

1                   A bill to be entitled  
2           An act relating to materials harmful to minors;  
3           amending s. 847.001, F.S.; revising the definitions of  
4           the terms "child pornography," "harmful to minors,"  
5           "obscene," and "person"; amending s. 847.012, F.S.;  
6           prohibiting a person from selling or renting specified  
7           materials to a minor for monetary consideration;  
8           prohibiting a person from loaning specified materials  
9           to a minor for any reason; providing criminal  
10          penalties; requiring school districts to proactively  
11          remove specified materials; amending s. 1002.20, F.S.;  
12          providing that a public school student may be exposed  
13          to certain teaching only in accordance with a  
14          specified procedure; amending s. 1003.42, F.S.;  
15          requiring school districts or specified schools to  
16          notify and request the written consent of parents  
17          before the teaching of reproductive health or any  
18          sexually transmitted disease; prohibiting a student  
19          whose parent does not give such written consent from  
20          being penalized; amending s. 1006.28, F.S.; adding  
21          certain materials to the policy district school boards  
22          are required to adopt which allows certain objections  
23          from parents or county residents; requiring district  
24          school boards to annually review specified materials  
25          and immediately discontinue the use of any found to be

26 | inappropriate or unsuitable; authorizing a student's  
 27 | parent or a county resident to contest on specified  
 28 | grounds a district school board's adoption of certain  
 29 | instructional material; requiring the school board to  
 30 | grant the petition or refer the matter to a hearing  
 31 | within a certain timeframe; providing that an  
 32 | administrative law judge has final order authority to  
 33 | rule on the petition; providing for the award of  
 34 | attorney fees and costs under certain circumstances;  
 35 | reenacting ss. 92.561(1) and 288.1254(1)(b) and (j),  
 36 | F.S., relating to the prohibition against reproducing  
 37 | child pornography and the exclusion of obscene content  
 38 | under the entertainment industry financial incentive  
 39 | program, respectively, to incorporate the amendments  
 40 | made by the act; providing effective dates.

41 |

42 | Be It Enacted by the Legislature of the State of Florida:

43 |

44 | Section 1. Effective October 1, 2022, subsections (3),  
 45 | (6), (10), and (11) of section 847.001, Florida Statutes, are  
 46 | amended to read:

47 | 847.001 Definitions.—As used in this chapter, the term:

48 | (3) "Child pornography" means any image depicting or text  
 49 | describing a minor engaged in sexual conduct.

50 | (6) "Harmful to minors" means any reproduction, imitation,

51 | characterization, description, exhibition, presentation, or  
 52 | representation, of whatever kind or form, depicting nudity,  
 53 | sexual conduct, or sexual excitement when it:

54 |       (a) Predominantly appeals to a prurient, shameful, or  
 55 | morbid interest; and

56 |       (b) Is patently offensive to prevailing standards for  
 57 | minors in the adult community as a whole with respect to what is  
 58 | suitable material or conduct ~~for minors; and~~

59 |       ~~(c) Taken as a whole, is without serious literary,~~  
 60 | ~~artistic, political, or scientific value for minors.~~

61 |  
 62 | A mother's breastfeeding of her baby is not under any  
 63 | circumstance "harmful to minors."

64 |       (10) "Obscene" means the status of materials that ~~material~~  
 65 | ~~which:~~

66 |       (a) 1. The average person, applying contemporary community  
 67 | standards, would find, taken as a whole, appeals to the prurient  
 68 | interest;

69 |       2. ~~(b)~~ Depicts or describes, in a patently offensive way,  
 70 | sexual conduct as specifically defined herein; and

71 |       3. ~~(c)~~ Taken as a whole, lacks serious literary, artistic,  
 72 | political, or scientific value; or

73 |       (b)1. The average person, applying contemporary community  
 74 | standards for appropriate materials for minors, would object to  
 75 | as depicting or describing, in a patently offensive way, sexual

76 | conduct as defined herein which is harmful to minors; and  
 77 | 2. Taken as a whole, lacks serious literary, artistic,  
 78 | political, or scientific value for minors.

79 |  
 80 | A mother's breastfeeding of her baby is not under any  
 81 | circumstance "obscene."

82 | (11) "Person" includes individuals, minors ~~children,~~  
 83 | firms, associations, joint ventures, partnerships, estates,  
 84 | trusts, business trusts, syndicates, fiduciaries, corporations,  
 85 | and all other groups or combinations.

86 | Section 2. Effective October 1, 2022, section 847.012,  
 87 | Florida Statutes, is amended to read:

88 | 847.012 Harmful materials; sale or distribution to minors  
 89 | or using minors in production prohibited; use in public schools  
 90 | prohibited; penalty.—

91 | (1) As used in this section, "knowingly" means having the  
 92 | general knowledge of, reason to know, or a belief or ground for  
 93 | belief which warrants further inspection or inquiry of both:

94 | (a) The character and content of any material described in  
 95 | this section which is reasonably susceptible of examination by  
 96 | the defendant; and

97 | (b) The age of the minor.

98 | (2) A person's ignorance of a minor's age, a minor's  
 99 | misrepresentation of his or her age, a bona fide belief of a  
 100 | minor's age, or a minor's consent may not be raised as a defense

101 in a prosecution for a violation of this section.

102 (3) A person may not knowingly sell ~~or~~ rent for monetary  
 103 consideration, or loan for any reason ~~monetary consideration~~ to  
 104 a minor:

105 (a) Any picture, photograph, drawing, sculpture, motion  
 106 picture film, videocassette, or similar visual representation or  
 107 image of a person or portion of the human body which depicts  
 108 nudity or sexual conduct, sexual excitement, sexual battery,  
 109 bestiality, or sadomasochistic abuse and which is harmful to  
 110 minors; ~~or~~

111 (b) Any book, pamphlet, magazine, printed matter however  
 112 reproduced, or sound recording that contains any matter defined  
 113 in s. 847.001, explicit and detailed verbal descriptions or  
 114 narrative accounts of sexual excitement, or sexual conduct and  
 115 that is harmful to minors; or

116 (c)1. Any material used in a public K-12 school classroom,  
 117 made available in a public K-12 school library, or included on a  
 118 public K-12 school recommended reading list which contains  
 119 obscene content or is harmful to minors or is prohibited as  
 120 conduct inappropriate for minors. Such materials are not  
 121 acceptable and the school district shall proactively remove all  
 122 such materials.

123 2. If the district school board finds that any  
 124 instructional material, including any materials used in the  
 125 classroom or assigned or offered as reading material, violates

126 this section, the material shall be proactively removed. This  
127 required action is not dependent on a parent or resident  
128 complaint.

129 (4) A person may not knowingly use a minor in the  
130 production of any material described in subsection (3),  
131 regardless of whether the material is intended for distribution  
132 to minors or is actually distributed to minors.

133 (5) An adult may not knowingly distribute to a minor on  
134 school property, or post on school property, any material  
135 described in subsection (3). As used in this subsection, the  
136 term "school property" means the grounds or facility of any  
137 kindergarten, elementary school, middle school, junior high  
138 school, or secondary school, whether public or nonpublic. This  
139 subsection does not apply to the distribution or posting of  
140 school-approved instructional materials that by design serve as  
141 a major tool for assisting in the instruction of a subject or  
142 course by school officers, instructional personnel,  
143 administrative personnel, school volunteers, educational support  
144 employees, or managers as those terms are defined in s. 1012.01.

145 (6) Any person violating any provision of this section  
146 commits a felony of the third degree, punishable as provided in  
147 s. 775.082, s. 775.083, or s. 775.084.

148 (7) Every act, thing, or transaction forbidden by this  
149 section constitutes a separate offense and is punishable as  
150 such.

151 (8) (a) The circuit court has jurisdiction to enjoin a  
152 violation of this section upon complaint filed by the state  
153 attorney in the name of the state upon the relation of such  
154 state attorney.

155 (b) After the filing of such a complaint, the judge to  
156 whom it is presented may grant an order restraining the person  
157 complained of until final hearing or further order of the court.  
158 Whenever the relator state attorney requests a judge of such  
159 court to set a hearing upon an application for a restraining  
160 order, the judge shall set the hearing for a time within 3 days  
161 after the making of the request. The order may not be made  
162 unless the judge is satisfied that sufficient notice of the  
163 application therefor has been given to the party restrained of  
164 the time when and place where the application for the  
165 restraining order is to be made.

166 (c) The person sought to be enjoined is entitled to a  
167 trial of the issues within 1 day after joinder of issue, and a  
168 decision shall be rendered by the court within 2 days after the  
169 conclusion of the trial.

170 (d) If a final decree of injunction is entered, it must  
171 contain a provision directing the defendant having the  
172 possession, custody, or control of the materials, matters,  
173 articles, or things affected by the injunction to surrender the  
174 same to the sheriff and requiring the sheriff to seize and  
175 destroy the same. The sheriff shall file a certificate of her or

176 his compliance.

177 (e) In any action brought as provided in this section, a  
 178 bond or undertaking may not be required of the state or the  
 179 state attorney before the issuance of a restraining order  
 180 provided for by paragraph (b), and the state or the state  
 181 attorney may not be held liable for costs or for damages  
 182 sustained by reason of the restraining order in any case where a  
 183 final decree is rendered in favor of the person sought to be  
 184 enjoined.

185 (f) Every person who has possession, custody, or control  
 186 of, or otherwise deals with, any of the materials, matters,  
 187 articles, or things described in this section, after the service  
 188 upon her or him of a summons and complaint in an action for  
 189 injunction brought under this section, is chargeable with  
 190 knowledge of the contents and character thereof.

191 (9) The several sheriffs and state attorneys shall  
 192 vigorously enforce this section within their respective  
 193 jurisdictions.

194 (10) This section does not apply to the exhibition of  
 195 motion pictures, shows, presentations, or other representations  
 196 regulated under s. 847.013.

197 Section 3. Paragraph (d) of subsection (3) of section  
 198 1002.20, Florida Statutes, is amended to read:

199 1002.20 K-12 student and parent rights.—Parents of public  
 200 school students must receive accurate and timely information



201 regarding their child's academic progress and must be informed  
 202 of ways they can help their child to succeed in school. K-12  
 203 students and their parents are afforded numerous statutory  
 204 rights including, but not limited to, the following:

205 (3) HEALTH ISSUES.—

206 (d) *Reproductive health and disease education.*—A public  
 207 school student ~~whose parent makes written request to the school~~  
 208 ~~principal shall be exempted from~~ may be exposed to the teaching  
 209 of reproductive health or any sexually transmitted disease,  
 210 including HIV/AIDS, only in accordance with s. 1003.42(3). Each  
 211 school district shall, on the district's website homepage,  
 212 notify parents of this right and the process to request an  
 213 exemption. The homepage must include a link for a student's  
 214 parent to access and review the instructional materials, as  
 215 defined in s. 1006.29(2), used to teach the curriculum.

216 Section 4. Subsection (3) of section 1003.42, Florida  
 217 Statutes, is amended to read:

218 1003.42 Required instruction.—

219 (3) School districts, or schools as defined in s.  
 220 1003.01(2), shall notify and request the written consent of  
 221 parents at least 10 instructional days before ~~Any student whose~~  
 222 ~~parent makes written request to the school principal shall be~~  
 223 ~~exempted from~~ the teaching of reproductive health or any  
 224 sexually transmitted disease, including HIV/AIDS, and its  
 225 symptoms, development, and treatment. A school may not allow a

226 student to be exposed to such teaching without the prior written  
 227 consent of his or her parent. A student whose parent does not  
 228 give written consent for such teaching ~~so exempted~~ may not be  
 229 penalized by reason of that withholding of consent ~~exemption~~.  
 230 Course descriptions for comprehensive health education may shall  
 231 not interfere with the local determination of appropriate  
 232 curriculum which reflects local values and concerns. Each school  
 233 district shall, on the district's website homepage, notify  
 234 parents of this right and the process to request an exemption.  
 235 The home page must include a link for a student's parent to  
 236 access and review the instructional materials, as defined in s.  
 237 1006.29(2), used to teach the curriculum.

238 Section 5. Paragraph (a) of subsection (2) of section  
 239 1006.28, Florida Statutes, is amended to read:

240 1006.28 Duties of district school board, district school  
 241 superintendent; and school principal regarding K-12  
 242 instructional materials.—

243 (2) DISTRICT SCHOOL BOARD.—The district school board has  
 244 the constitutional duty and responsibility to select and provide  
 245 adequate instructional materials for all students in accordance  
 246 with the requirements of this part. The district school board  
 247 also has the following specific duties and responsibilities:

248 (a) *Courses of study; adoption.*—Adopt courses of study,  
 249 including instructional materials, for use in the schools of the  
 250 district.

251           1. Each district school board is responsible for the  
252 content of all instructional materials and any other materials  
253 used in a classroom, made available in a school library, or  
254 included on a reading list, whether adopted and purchased from  
255 the state-adopted instructional materials list, adopted and  
256 purchased through a district instructional materials program  
257 under s. 1006.283, or otherwise purchased or made available.  
258 Each district school board shall maintain on its website a  
259 current list of instructional materials, by grade level,  
260 purchased by the district.

261           2. Each district school board must adopt a policy  
262 regarding an objection by a parent or a resident of the county  
263 to the use of a specific instructional material, which clearly  
264 describes a process to handle all objections and provides for  
265 resolution. The process must provide the parent or resident the  
266 opportunity to proffer evidence to the district school board  
267 that:

268           a. An instructional material does not meet the criteria of  
269 s. 1006.31(2) or s. 1006.40(3)(d) if it was selected for use in  
270 a course or otherwise made available to students in the school  
271 district but was not subject to the public notice, review,  
272 comment, and hearing procedures under s. 1006.283(2)(b) 8., 9.,  
273 and 11.

274           b. Any material used in a classroom, made available in a  
275 school library, or included on a reading list contains content

276 that constitutes child pornography, is harmful to minors, or is  
277 obscene, as those terms are defined in s. 847.001, is  
278 pornographic or prohibited under s. 847.012, is not suited to  
279 student needs and their ability to comprehend the material  
280 presented, or is inappropriate for the grade level and age group  
281 for which the material is used.

282  
283 By July 1, 2023, and each July 1 thereafter, district school  
284 boards shall complete a review of all instructional material  
285 used in a public K-12 school classroom, made available in a  
286 public K-12 school library, or included on a public K-12 school  
287 reading list within the district. If the district school board  
288 finds that an instructional material does not meet the criteria  
289 under sub-subparagraph a. or that any other material contains  
290 prohibited content under sub-subparagraph b., the school  
291 district shall immediately discontinue use of the material for  
292 any grade level or age group for which such use is inappropriate  
293 or unsuitable, regardless of whether the district school board  
294 has received any complaint about the material.

295 3. Each district school board must establish a process by  
296 which the parent of a public school student or a resident of the  
297 county may contest the district school board's adoption of a  
298 specific instructional material. The parent or resident must  
299 file a petition, on a form provided by the school board, within  
300 30 calendar days after the adoption of the material by the

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301 school board. The school board must make the form available to  
302 the public and publish the form on the school district's  
303 website. The form must be signed by the parent or resident,  
304 include the required contact information, and state the  
305 objection to the instructional material based on the criteria of  
306 s. 1006.31(2) or s. 1006.40(3)(d). Within 30 days after the 30-  
307 day period has expired, the school board must, for all petitions  
308 timely received, conduct at least one open public hearing before  
309 an unbiased and qualified hearing officer. The hearing officer  
310 may not be an employee or agent of the school district. The  
311 hearing is not subject to ~~the provisions of~~ chapter 120;  
312 however, the hearing must provide sufficient procedural  
313 protections to allow each petitioner an adequate and fair  
314 opportunity to be heard and present evidence to the hearing  
315 officer. The school board's decision after convening a hearing  
316 is final and not subject to further petition or review.

317 4. Notwithstanding subparagraph 3., the parent of a public  
318 school student or a resident of the county may contest the  
319 district school board's adoption of a specific instructional  
320 material at any time before or after the material's adoption by  
321 the district school board on the grounds that the material  
322 constitutes child pornography, is harmful to minors, or is  
323 obscene, as those terms are defined in s. 847.001, or is  
324 pornographic or prohibited under s. 847.012. The parent or  
325 resident must file a petition on a form provided by the school

326 board. The school board shall make the form available to the  
327 public and publish the form on the school district's website.  
328 The form must be signed by the parent or resident, include any  
329 required contact information, and state the objection to the  
330 instructional material, based on the criteria in s. 847.001 or  
331 s. 847.012. Within 30 days, the school board must either grant  
332 the petition or refer the matter to the Division of  
333 Administrative Hearings for a hearing under chapter 120. The  
334 administrative law judge has final order authority to rule on  
335 the parent or resident's petition. The administrative law judge  
336 shall award a prevailing parent or resident reasonable attorney  
337 fees and costs incurred during the administrative proceeding and  
338 any appeals.

339 Section 6. For the purpose of incorporating the amendments  
340 made by this act to section 847.001, Florida Statutes, in a  
341 reference thereto, subsection (1) of section 92.561, Florida  
342 Statutes, is reenacted to read:

343 92.561 Prohibition on reproduction of child pornography.—

344 (1) In a criminal proceeding, any property or material  
345 that portrays sexual performance by a child as defined in s.  
346 827.071, or constitutes child pornography as defined in s.  
347 847.001, must remain secured or locked in the care, custody, and  
348 control of a law enforcement agency, the state attorney, or the  
349 court.

350 Section 7. For the purpose of incorporating the amendments

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351 made by this act to section 847.001, Florida Statutes, in  
352 references thereto, paragraphs (b) and (j) of subsection (1) of  
353 section 288.1254, Florida Statutes, are reenacted to read:

354 288.1254 Entertainment industry financial incentive  
355 program.—

356 (1) DEFINITIONS.—As used in this section, the term:

357 (b) "Digital media project" means a production of  
358 interactive entertainment that is produced for distribution in  
359 commercial or educational markets. The term includes a video  
360 game or production intended for Internet or wireless  
361 distribution, an interactive website, digital animation, and  
362 visual effects, including, but not limited to, three-dimensional  
363 movie productions and movie conversions. The term does not  
364 include a production that contains content that is obscene as  
365 defined in s. 847.001.

366 (j) "Qualified production" means a production in this  
367 state meeting the requirements of this section. The term does  
368 not include a production:

369 1. In which, for the first 2 years of the incentive  
370 program, less than 50 percent, and thereafter, less than 60  
371 percent, of the positions that make up its production cast and  
372 below-the-line production crew, or, in the case of digital media  
373 projects, less than 75 percent of such positions, are filled by  
374 legal residents of this state, whose residency is demonstrated  
375 by a valid Florida driver license or other state-issued

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376 | identification confirming residency, or students enrolled full-  
377 | time in a film-and-entertainment-related course of study at an  
378 | institution of higher education in this state; or

379 |         2. That contains obscene content as defined in s.  
380 | 847.001(10).

381 |         Section 8. Except as otherwise expressly provided in this  
382 | act, this act shall take effect July 1, 2022.