

By the Committee on Criminal Justice; and Senator McClain

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A bill to be entitled

An act relating to material that is harmful to minors; amending 1006.28, F.S.; defining the term "harmful to minors"; revising the list of materials used in a classroom which are subject to the objection process by parents or residents; reenacting s. 1014.05(1)(c), F.S., relating to school district notifications on parental rights, to incorporate the amendment made to s. 1006.28, F.S., in a reference thereto; providing an effective date.

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

Section 1. Subsection (1) and paragraph (a) of subsection (2) of section 1006.28, Florida Statutes, is amended to read

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

(1) DEFINITIONS.—

(a) As used in this section, the term:

1. "Adequate instructional materials" means a sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction in the core subject areas of mathematics, language arts, social studies, science, reading, and literature.

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30 2. "Harmful to minors" means any reproduction, imitation,
31 characterization, description, exhibition, presentation, or
32 representation, of whatever kind or form, depicting nudity,
33 sexual conduct, or sexual excitement when it:

34 a. Predominantly appeals to prurient, shameful, or morbid
35 interest; and

36 b. Is patently offensive to prevailing standards in the
37 adult community as a whole with respect to what is suitable
38 material or conduct for minors.

39 3.2. "Instructional materials" has the same meaning as in
40 s. 1006.29(2).

41 4.3. "Library media center" means any collection of books,
42 ebooks, periodicals, or videos maintained and accessible on the
43 site of a school, including in classrooms.

44 (b) As used in this section and s. 1006.283, the term
45 "resident" means a person who has maintained his or her
46 residence in this state for the preceding year, has purchased a
47 home that is occupied by him or her as his or her residence, or
48 has established a domicile in this state pursuant to s. 222.17.

49 (c) As used in this section and ss. 1006.283, 1006.32,
50 1006.35, 1006.37, 1006.38, 1006.40, and 1006.42, the term
51 "purchase" includes purchase, lease, license, and acquire.

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

57 (a) *Courses of study; adoption.*—Adopt courses of study,
58 including instructional materials, for use in the schools of the

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59 district.

60 1. Each district school board is responsible for the
61 content of all instructional materials and any other materials
62 used in a classroom, made available in a school or classroom
63 library, or included on a reading list, whether adopted and
64 purchased from the state-adopted instructional materials list,
65 adopted and purchased through a district instructional materials
66 program under s. 1006.283, or otherwise purchased or made
67 available.

68 2. Each district school board must adopt a policy regarding
69 an objection by a parent or a resident of the county to the use
70 of a specific material, which clearly describes a process to
71 handle all objections and provides for resolution. The objection
72 form, as prescribed by State Board of Education rule, and the
73 district school board's process must be easy to read and
74 understand and be easily accessible on the homepage of the
75 school district's website. The objection form must also identify
76 the school district point of contact and contact information for
77 the submission of an objection. The process must provide the
78 parent or resident the opportunity to proffer evidence to the
79 district school board that:

80 a. An instructional material does not meet the criteria of
81 s. 1006.31(2) or s. 1006.40(3)(c) if it was selected for use in
82 a course or otherwise made available to students in the school
83 district but was not subject to the public notice, review,
84 comment, and hearing procedures under s. 1006.283(2)(b)8., 9.,
85 and 11.

86 b. Any material used in a classroom, made available in a
87 school or classroom library, or included on a reading list

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contains content which:

(I) Is pornographic or prohibited under s. 847.012;

(II) Is considered harmful to minors as defined by this section or depicts or describes sexual conduct as defined in s. 847.001(19), unless such material is specifically authorized as part of a health education course required under s. 1003.46; as part of comprehensive health education required under s. 1003.42(2)(o)1.g. or 3.; or as approved through for a course required by s. 1003.46 or s. 1003.42(2)(o)1.g. or 3., or identified by State Board of Education rule for specific educational purposes.

(A) Upon receipt of an objection under this sub-sub-subparagraph regarding material that is harmful to minors, the material must be removed within 5 school days; the material must remain unavailable throughout the objection review process; and the school board may not consider potential literary, artistic, political, or scientific value as a basis for retaining the material.

(B) The State Board of Education shall monitor district compliance with the requirements of this sub-sub-subparagraph through regular audits and reporting. Upon finding that a district has failed to comply with these requirements, the State Board of Education must provide written notice of noncompliance to the district and require the district to submit a corrective action plan within 30 days after receiving such notice; may withhold the transfer of state funds, discretionary grant funds, discretionary lottery funds, or any other funds specified by the Legislature until the school district complies with the requirements; and may impose additional sanctions or

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requirements as conditions for the continued receipt of state funds;

(III) Is not suited to student needs and their ability to comprehend the material presented; or

(IV) Is inappropriate for the grade level and age group for which the material is used.

A resident of the county who is not the parent or guardian of a student with access to school district materials may not object to more than one material per month. The State Board of Education may adopt rules to implement this provision. Any material that is subject to an objection on the basis of sub-sub-subparagraph b.(I) or sub-sub-subparagraph b.(II) must be removed within 5 school days after receipt of the objection and remain unavailable to students of that school until the objection is resolved. Parents shall have the right to read passages from any material that is subject to an objection. If the school board denies a parent the right to read passages due to content that meets the requirements under sub-sub-subparagraph b.(I), the school district shall discontinue the use of the material in the school district. If the district school board finds that any material meets the requirements under sub-subparagraph a. or that any other material contains prohibited content under sub-sub-subparagraph b.(I), the school district shall discontinue use of the material. If the district school board finds that any other material contains prohibited content under sub-sub-subparagraphs b.(II)-(IV), the school district shall discontinue use of the material for any grade level or age group for which such use is inappropriate or

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unsuitable.

3. Each district school board must establish a process by which the parent of a public school student or a resident of the county may contest the district school board's adoption of a specific instructional material. The parent or resident must file a petition, on a form provided by the school board, within 30 calendar days after the adoption of the instructional material by the school board. The school board must make the form available to the public and publish the form on the school district's website. The form must be signed by the parent or resident, include the required contact information, and state the objection to the instructional material based on the criteria of s. 1006.31(2) or s. 1006.40(3)(c). Within 30 days after the 30-day period has expired, the school board must, for all petitions timely received, conduct at least one open public hearing before an unbiased and qualified hearing officer. The hearing officer may not be an employee or agent of the school district. The hearing is not subject to the provisions of chapter 120; however, the hearing must provide sufficient procedural protections to allow each petitioner an adequate and fair opportunity to be heard and present evidence to the hearing officer. The school board's decision after convening a hearing is final and not subject to further petition or review.

4. Meetings of committees convened for the purpose of ranking, eliminating, or selecting instructional materials for recommendation to the district school board must be noticed and open to the public in accordance with s. 286.011. Any committees convened for such purposes must include parents of students who will have access to such materials.

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175 5. Meetings of committees convened for the purpose of
176 resolving an objection by a parent or resident to specific
177 materials must be noticed and open to the public in accordance
178 with s. 286.011. Any committees convened for such purposes must
179 include parents of students who will have access to such
180 materials.

181 6. If a parent disagrees with the determination made by the
182 district school board on the objection to the use of a specific
183 material, a parent may request the Commissioner of Education to
184 appoint a special magistrate who is a member of The Florida Bar
185 in good standing and who has at least 5 years' experience in
186 administrative law. The special magistrate shall determine facts
187 relating to the school district's determination, consider
188 information provided by the parent and the school district, and
189 render a recommended decision for resolution to the State Board
190 of Education within 30 days after receipt of the request by the
191 parent. The State Board of Education must approve or reject the
192 recommended decision at its next regularly scheduled meeting
193 that is more than 7 calendar days and no more than 30 days after
194 the date the recommended decision is transmitted. The costs of
195 the special magistrate shall be borne by the school district.
196 The State Board of Education shall adopt rules, including forms,
197 necessary to implement this subparagraph.

198 Section 2. For the purpose of incorporating the amendment
199 made by this act to section 1006.28, Florida Statutes, in a
200 reference thereto, paragraph (c) of subsection (1) of section
201 1014.05, Florida Statutes, is reenacted to read:

202 1014.05 School district notifications on parental rights.—

203 (1) Each district school board shall, in consultation with

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204 parents, teachers, and administrators, develop and adopt a
205 policy to promote parental involvement in the public school
206 system. Such policy must include:

207 (c) Procedures, pursuant to s. 1006.28(2)(a)2., for a
208 parent to object to instructional materials and other materials
209 used in the classroom. Such objections may be based on beliefs
210 regarding morality, sex, and religion or the belief that such
211 materials are harmful. For purposes of this section, the term
212 "instructional materials" has the same meaning as in s.
213 1006.29(2) and may include other materials used in the
214 classroom, including workbooks and worksheets, handouts,
215 software, applications, and any digital media made available to
216 students.

217 Section 3. This act shall take effect July 1, 2025.