

HB 6087

2022

1 A bill to be entitled
2 An act relating to distribution of harmful materials
3 to minors; amending s. 847.012, F.S.; removing an
4 exception for certain instructional materials;
5 reenacting ss. 1006.28(2)(a), 1006.31(2), 1006.34(2),
6 and 1006.40(3)(d), F.S., relating to the duties of the
7 district school board, the district school
8 superintendent, and the school principal regarding K-
9 12 instructional materials, the duties of the
10 Department of Education and school district
11 instructional materials reviewer, the powers and
12 duties of the commissioner and the department in
13 selecting and adopting instructional materials, and
14 the use of instructional materials allocation,
15 respectively, to incorporate amendments made by the
16 act; providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

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20 Section 1. Subsection (5) of section 847.012, Florida
21 Statutes, is amended, and subsection (3) of that section is
22 republished, to read:

23 847.012 Harmful materials; sale or distribution to minors
24 or using minors in production prohibited; penalty.—

25 (3) A person may not knowingly sell, rent, or loan for

26 | monetary consideration to a minor:

27 | (a) Any picture, photograph, drawing, sculpture, motion
 28 | picture film, videocassette, or similar visual representation or
 29 | image of a person or portion of the human body which depicts
 30 | nudity or sexual conduct, sexual excitement, sexual battery,
 31 | bestiality, or sadomasochistic abuse and which is harmful to
 32 | minors; or

33 | (b) Any book, pamphlet, magazine, printed matter however
 34 | reproduced, or sound recording that contains any matter defined
 35 | in s. 847.001, explicit and detailed verbal descriptions or
 36 | narrative accounts of sexual excitement, or sexual conduct and
 37 | that is harmful to minors.

38 | (5) An adult may not knowingly distribute to a minor on
 39 | school property, or post on school property, any material
 40 | described in subsection (3). As used in this subsection, the
 41 | term "school property" means the grounds or facility of any
 42 | kindergarten, elementary school, middle school, junior high
 43 | school, or secondary school, whether public or nonpublic. ~~This~~
 44 | ~~subsection does not apply to the distribution or posting of~~
 45 | ~~school-approved instructional materials that by design serve as~~
 46 | ~~a major tool for assisting in the instruction of a subject or~~
 47 | ~~course by school officers, instructional personnel,~~
 48 | ~~administrative personnel, school volunteers, educational support~~
 49 | ~~employees, or managers as those terms are defined in s. 1012.01.~~

50 | Section 2. For the purpose of incorporating the amendment

51 made by this act to section 847.012, Florida Statutes, in a
52 reference thereto, paragraph (a) of subsection (2) of section
53 1006.28, Florida Statutes, is reenacted to read:

54 1006.28 Duties of district school board, district school
55 superintendent; and school principal regarding K-12
56 instructional materials.—

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

62 (a) Courses of study; adoption.—Adopt courses of study,
63 including instructional materials, for use in the schools of the
64 district.

65 1. Each district school board is responsible for the
66 content of all instructional materials and any other materials
67 used in a classroom, made available in a school library, or
68 included on a reading list, whether adopted and purchased from
69 the state-adopted instructional materials list, adopted and
70 purchased through a district instructional materials program
71 under s. 1006.283, or otherwise purchased or made available.
72 Each district school board shall maintain on its website a
73 current list of instructional materials, by grade level,
74 purchased by the district.

75 2. Each district school board must adopt a policy

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76 regarding an objection by a parent or a resident of the county
77 to the use of a specific instructional material, which clearly
78 describes a process to handle all objections and provides for
79 resolution. The process must provide the parent or resident the
80 opportunity to proffer evidence to the district school board
81 that:

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

88 b. Any material used in a classroom, made available in a
89 school library, or included on a reading list contains content
90 that is pornographic or prohibited under s. 847.012, is not
91 suited to student needs and their ability to comprehend the
92 material presented, or is inappropriate for the grade level and
93 age group for which the material is used.

94
95 If the district school board finds that an instructional
96 material does not meet the criteria under sub-subparagraph a. or
97 that any other material contains prohibited content under sub-
98 subparagraph b., the school district shall discontinue use of
99 the material for any grade level or age group for which such use
100 is inappropriate or unsuitable.

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101 3. Each district school board must establish a process by
102 which the parent of a public school student or a resident of the
103 county may contest the district school board's adoption of a
104 specific instructional material. The parent or resident must
105 file a petition, on a form provided by the school board, within
106 30 calendar days after the adoption of the material by the
107 school board. The school board must make the form available to
108 the public and publish the form on the school district's
109 website. The form must be signed by the parent or resident,
110 include the required contact information, and state the
111 objection to the instructional material based on the criteria of
112 s. 1006.31(2) or s. 1006.40(3)(d). Within 30 days after the 30-
113 day period has expired, the school board must, for all petitions
114 timely received, conduct at least one open public hearing before
115 an unbiased and qualified hearing officer. The hearing officer
116 may not be an employee or agent of the school district. The
117 hearing is not subject to the provisions of chapter 120;
118 however, the hearing must provide sufficient procedural
119 protections to allow each petitioner an adequate and fair
120 opportunity to be heard and present evidence to the hearing
121 officer.

122
123 The school board's decision after convening a hearing is final
124 and not subject to further petition or review.

125 Section 3. For the purpose of incorporating the amendment

126 made by this act to section 847.012, Florida Statutes, in a
 127 reference thereto, subsection (2) of section 1006.31, Florida
 128 Statutes, is reenacted to read:

129 1006.31 Duties of the Department of Education and school
 130 district instructional materials reviewer.—The duties of the
 131 instructional materials reviewer are:

132 (2) EVALUATION OF INSTRUCTIONAL MATERIALS.—To use the
 133 selection criteria listed in s. 1006.34(2) (b) and recommend for
 134 adoption only those instructional materials aligned with the
 135 Next Generation Sunshine State Standards provided for in s.
 136 1003.41. Instructional materials recommended by each reviewer
 137 shall be, to the satisfaction of each reviewer, accurate,
 138 objective, balanced, noninflammatory, current, free of
 139 pornography and material prohibited under s. 847.012, and suited
 140 to student needs and their ability to comprehend the material
 141 presented. Reviewers shall consider for recommendation materials
 142 developed for academically talented students, such as students
 143 enrolled in advanced placement courses. When recommending
 144 instructional materials, each reviewer shall:

145 (a) Include only instructional materials that accurately
 146 portray the ethnic, socioeconomic, cultural, religious,
 147 physical, and racial diversity of our society, including men and
 148 women in professional, career, and executive roles, and the role
 149 and contributions of the entrepreneur and labor in the total
 150 development of this state and the United States.

151 (b) Include only materials that accurately portray,
 152 whenever appropriate, humankind's place in ecological systems,
 153 including the necessity for the protection of our environment
 154 and conservation of our natural resources and the effects on the
 155 human system of the use of tobacco, alcohol, controlled
 156 substances, and other dangerous substances.

157 (c) Include materials that encourage thrift, fire
 158 prevention, and humane treatment of people and animals.

159 (d) Require, when appropriate to the comprehension of
 160 students, that materials for social science, history, or civics
 161 classes contain the Declaration of Independence and the
 162 Constitution of the United States. A reviewer may not recommend
 163 any instructional materials that contain any matter reflecting
 164 unfairly upon persons because of their race, color, creed,
 165 national origin, ancestry, gender, religion, disability,
 166 socioeconomic status, or occupation.

167 Section 4. For the purpose of incorporating the amendment
 168 made by this act to section 847.012, Florida Statutes, in a
 169 reference thereto, subsection (2) of section 1006.34, Florida
 170 Statutes, is reenacted to read:

171 1006.34 Powers and duties of the commissioner and the
 172 department in selecting and adopting instructional materials.—

173 (2) SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS.—

174 (a) The department shall notify all publishers and
 175 manufacturers of instructional materials who have submitted bids

176 that within 3 weeks after the deadline for receiving bids, at a
177 designated time and place, it will open the bids submitted and
178 deposited with it. At the time and place designated, the bids
179 shall be opened, read, and tabulated in the presence of the
180 bidders or their representatives. No one may revise his or her
181 bid after the bids have been filed. When all bids have been
182 carefully considered, the commissioner shall, from the list of
183 suitable, usable, and desirable instructional materials reported
184 by the state instructional materials reviewers, select and adopt
185 instructional materials for each grade and subject field in the
186 curriculum of public elementary, middle, and high schools in
187 which adoptions are made and in the subject areas designated in
188 the advertisement. The adoption shall continue for the period
189 specified in the advertisement, beginning on the ensuing April
190 1. The adoption shall not prevent the extension of a contract as
191 provided in subsection (3). The commissioner shall always
192 reserve the right to reject any and all bids. The commissioner
193 may ask for new sealed bids from publishers or manufacturers
194 whose instructional materials were recommended by the state
195 instructional materials reviewers as suitable, usable, and
196 desirable; specify the dates for filing such bids and the date
197 on which they shall be opened; and proceed in all matters
198 regarding the opening of bids and the awarding of contracts as
199 required by this part. In all cases, bids shall be accompanied
200 by a cash deposit or certified check of from \$500 to \$2,500, as

201 the department may direct. The department, in adopting
202 instructional materials, shall give due consideration both to
203 the prices bid for furnishing instructional materials and to the
204 report and recommendations of the state instructional materials
205 reviewers. When the commissioner has finished with the report of
206 the state instructional materials reviewers, the report shall be
207 filed and preserved with the department and shall be available
208 at all times for public inspection.

209 (b) In the selection of instructional materials, library
210 media, and other reading material used in the public school
211 system, the standards used to determine the propriety of the
212 material shall include:

213 1. The age of the students who normally could be expected
214 to have access to the material.

215 2. The educational purpose to be served by the material.
216 Priority shall be given to the selection of materials that align
217 with the Next Generation Sunshine State Standards as provided
218 for in s. 1003.41 and include the instructional objectives
219 contained within the curriculum frameworks for career and
220 technical education and adult and adult general education
221 adopted by rule of the State Board of Education under s.
222 1004.92.

223 3. The degree to which the material would be supplemented
224 and explained by mature classroom instruction as part of a
225 normal classroom instructional program.

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226 4. The consideration of the broad racial, ethnic,
227 socioeconomic, and cultural diversity of the students of this
228 state.

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230 Any instructional material containing pornography or otherwise
231 prohibited by s. 847.012 may not be used or made available
232 within any public school.

233 Section 5. For the purpose of incorporating the amendment
234 made by this act to section 847.012, Florida Statutes, in a
235 reference thereto, paragraph (d) of subsection (3) of section
236 1006.40, Florida Statutes, is reenacted to read:

237 1006.40 Use of instructional materials allocation;
238 instructional materials, library books, and reference books;
239 repair of books.—

240 (3)

241 (d) Any materials purchased pursuant to this section must
242 be:

243 1. Free of pornography and material prohibited under s.
244 847.012.

245 2. Suited to student needs and their ability to comprehend
246 the material presented.

247 3. Appropriate for the grade level and age group for which
248 the materials are used or made available.

249 Section 6. This act shall take effect July 1, 2022.