

The Senate Committee on Education and Youth offered the following substitute to SB 394:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to  
2 enact the "Clean Libraries Act"; to establish and provide for the Georgia Council on Library  
3 Materials Standards; to provide for definitions, including definitions for the terms "harmful  
4 to minors," "restricted materials," and "sexually explicit materials"; to require the Georgia  
5 Council on Library Materials Standards to establish standards for the designation of restricted  
6 materials by local boards of education, standards for the use and restriction of instructional  
7 materials, and standards for the use and restriction of public school library collection  
8 materials; to require the Georgia Council on Library Materials Standards to annually update  
9 such standards; to require the Department of Education to provide technical support to local  
10 boards of education for implementing such standards; to require local boards of education  
11 to adopt and annually update policies and procedures that comply with such standards; to  
12 provide for certain instructional materials to include ratings which indicate whether any  
13 portion of such material includes sexually explicit material; to prohibit local boards of  
14 education from acquiring instructional materials from vendors who do not provide such  
15 ratings and other required information; to require local boards of education to periodically  
16 publish lists of instructional materials that include sexually explicit materials; to require  
17 periodic review of restricted materials in public school library collection materials and  
18 determination of what restricted materials should be retained; to require local boards of

19 education to periodically provide to the Department of Education a list of restricted materials  
20 included in its school library collection materials; to require the Department of Education to  
21 publish such lists; to provide that existing complaint resolution policies for materials that are  
22 harmful to minors shall apply, subject to an embargo provision; to revise and expand the  
23 definition of "harmful to minors" regarding the complaint resolution policy for materials that  
24 are harmful to minors; to provide for related matters; to repeal conflicting laws; and for other  
25 purposes.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

27 **SECTION 1.**

28 This Act shall be known and may be cited as the "Clean Libraries Act."

29 **SECTION 2.**

30 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in  
31 Chapter 1, relating to general provisions, by adding a new article to read as follows:

32 "ARTICLE 5

33 20-1-50.

34 As used in this article, the term 'council' means the Georgia Council on Library Materials  
35 Standards established under this article.

36 20-1-51.

37 (a) There is established the Georgia Council on Library Materials Standards for the  
38 purpose of establishing standards for school library programs and services in any public  
39 school operated by a local board of education, for instructional materials used in any public

40 school operated by a local board of education, and for the designation of restricted material  
41 by local boards of education.

42 (b) The council shall work in partnership with the State Board of Education and the  
43 Department of Education to implement the requirements of Code Section 20-2-324.7.

44 20-1-52.

45 (a)(1) The council shall be composed of ten members as follows:

46 (A) Four members appointed by the Governor;

47 (B) Two members appointed by the Lieutenant Governor;

48 (C) Two members appointed by the Speaker of the House of Representatives;

49 (D) One member appointed by the Leader of the house of Representatives minority  
50 caucus; and

51 (E) One member appointed by the Leader of the Senate minority caucus.

52 (2) No more than two members of the council shall be current or former employees of  
53 the Department of Education or a local education agency, as such term is defined in Code  
54 Section 20-2-167.1, and no more than three members shall have any current or former  
55 contractual, legal, or other official affiliation with the Department of Education or a local  
56 education agency.

57 (b) Each nonlegislative member of the council shall be appointed to serve until his or her  
58 successor is duly appointed. Legislative members of the council shall serve until  
59 completion of their current terms of office. Any member may be appointed to succeed  
60 himself or herself on the council. If a member of the council is an elected or appointed  
61 official, such member, or his or her designee, shall be removed from the council if such  
62 member no longer serves as such elected or appointed official.

63 (c) The council shall elect a chairperson from among its members and may elect other  
64 officers as it deems necessary. The chairperson of the council may designate and appoint  
65 committees from among the membership of the council as well as appoint other persons

66 to perform such functions as he or she may determine to be necessary as relevant to and  
67 consistent with this article. The chairperson shall only vote to break a tie.

68 (d) The council shall be attached for administrative purposes only to the Department of  
69 Education. The Department of Education shall provide staff support for the council and  
70 shall hire an individual to serve as special advisor to the council who shall be responsible  
71 for coordination of such staff support and for working in coordination with stakeholder  
72 agencies and other interested parties. The Department of Education shall use any funds  
73 specifically appropriated to support the work of the council for such purpose.

74 20-1-53.

75 (a) The council may conduct meetings at such places and times as it deems necessary or  
76 convenient to enable it to fully and effectively exercise its powers, perform its duties, and  
77 accomplish the objectives and purposes of this article; provided, however, that the council  
78 shall meet not less than four times per year. The council shall hold meetings at the call of  
79 the chairperson.

80 (b) A quorum for transacting business shall be a majority of the members of the council.

81 (c) Legislative members of the council shall receive the allowances provided for in Code  
82 Section 28-1-8. Nonlegislative members of the council shall receive a daily expense  
83 allowance in the amount specified in subsection (b) of Code Section 45-7-21 as well as the  
84 mileage or transportation allowance authorized for state employees. Members of the  
85 council who are state officials, other than legislative members, or state employees shall  
86 receive no compensation for their services on the council, but shall be reimbursed for  
87 expenses incurred by them in the performance of their duties as members of the council in  
88 the same manner as they are reimbursed for expenses in their capacities as state officials  
89 or state employees. The funds necessary for the reimbursement of the expenses of state  
90 officials, other than legislative members, and state employees shall come from funds  
91 appropriated to or otherwise available to their respective departments. All other funds

92 necessary to carry out the provisions of this article shall come from funds appropriated to  
93 the Senate and the House of Representatives.

94 20-1-54.

95 The council shall be authorized to:

96 (1) Request and receive data from and review the records of appropriate state and local  
97 agencies to the greatest extent allowed by state and federal law;

98 (2) Seek and accept public or private grants, devises, and bequests;

99 (3) Enter into contracts or agreements through the council's chairperson necessary or  
100 incidental to the performance of its duties;

101 (4) Establish rules and procedures for conducting the business of the council;

102 (5) Conduct studies, hold public meetings, collect data, or take any other action the  
103 council deems necessary to fulfill its responsibilities; and

104 (6) Retain the services of attorneys, consultants, subject matter experts, economists,  
105 budget analysts, data analysts, statisticians, and other individuals or organizations as  
106 deemed appropriate by the council. Such services may be obtained through a request for  
107 proposal process conducted through the Office of Planning and Budget; provided,  
108 however, that any final selection shall be approved by the council."

109 **SECTION 3.**

110 Said title is further amended in Part 15 of Article 6 of Chapter 2, relating to miscellaneous  
111 provisions of the "Quality Basic Education Act," by revising subsection (a) of Code Section  
112 20-2-324.6, relating to complaint resolution policy for materials "harmful to minors," as  
113 follows:

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

115 (1) 'Harmful ~~harmful~~ to minors' means:

116 (A) Means that quality of description or representation, in whatever form, of nudity,  
117 sexual conduct, sexual excitement, or sadomasochistic abuse, when it:

118 ~~(1)~~(i) Taken as a whole, predominantly appeals to the prurient, shameful, or morbid  
119 interest of minors;

120 ~~(2)~~(ii) Is patently offensive to prevailing standards in the adult community as a whole  
121 with respect to what is suitable material for minors; and

122 ~~(3)~~(iii) Is, when taken as a whole, lacking in serious literary, artistic, political, or  
123 scientific value for minors; and

124 (B) Includes 'sexually explicit material' excepting 'restricted material,' as such terms  
125 are defined in Code Section 20-2-324.7.

126 (2) 'Written consent' means individual and specific consent tailored to each individual  
127 requirement for consent from a student's parent or permanent guardian. Written consent  
128 does not constitute blanket consent."

129 **SECTION 4.**

130 Said title is further amended in said part by adding a new Code Section to read as follows:  
131 "20-2-324.7.

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

133 (1) 'Harmful to minors' has the meaning given to such term in Code Section 20-2-324.6.

134 (2) 'Local board of education' means the local board of education of each local school  
135 system or other public school governing body that receives state funding under this  
136 article.

137 (3) 'Primary instructional material' means instructional materials and content, as defined  
138 by the State Board of Education pursuant to Code Section 20-2-1010, and locally  
139 approved instructional materials and content, as defined in subsection (a) of Code Section  
140 20-2-1017, in any medium, including physical, electronic, visual, and audible.

141 (4) 'Restricted material' means primary instructional material or school library collection  
142 material that is so designated as provided in subsection (c) of this Code section  
143 notwithstanding whether such material is or may be sexually explicit material.

144 (5) 'School library collection material' means any material in any medium, including  
145 physical, electronic, visual, and audible, located within or accessible from a school library  
146 that is available to a student or is made available to a student by school personnel.

147 (6) 'Sexually explicit material' means any primary instructional material, supplementary  
148 instructional material, or school library collection material that describes, depicts,  
149 renders, or portrays in any medium, including physical, electronic, visual, and audible,  
150 sexually explicit conduct, as defined in Code Section 16-12-100, sadomasochistic abuse,  
151 as defined in Code Section 16-12-102, sexual conduct, as defined in Code Section  
152 16-12-102, or sexually explicit nudity, as defined by Code Section 16-12-102; provided,  
153 however, that such term shall not include materials of great religious or historical  
154 significance that do not describe, depict, render, or portray sexually explicit material in  
155 a patently offensive way.

156 (7) 'Supplementary instructional material' means any materials other than primary  
157 instructional materials in any medium, including physical, electronic, visual, and audible,  
158 that are included, or are intended to be included, by a teacher or other school personnel  
159 for use as part of a classroom discussion or other classroom activity or are recommended  
160 by a teacher or other school personnel for review by one or more students.

161 (b)(1)(A) By December 1, 2024, each local board of education shall adopt policies and  
162 procedures that comply with the standards established by the Georgia Council on  
163 Library Materials Standards as provided in subsections (c) through (e) of this Code  
164 section.

165 (B) By August 1, 2025, and each year thereafter, each local board of education shall  
166 adopt or update policies and procedures that comply with any updated standards  
167 established by the Georgia Council on Library Materials Standards provided in

168 paragraph (2) of subsection (c), paragraph (3) of subsection (d), and paragraph (3) of  
169 subsection (e) of this Code section.

170 (2) Beginning December 1, 2024, and continuing thereafter, no local board of education  
171 shall permit restricted material to:

172 (A) Include material that is harmful to minors;

173 (B) Be accessible by or otherwise available or disseminated in any manner to any  
174 student in or below grade six; or

175 (C) Be accessible by or otherwise available or disseminated in any manner to any  
176 student in or above grade seven without written consent from such student's parent or  
177 permanent guardian.

178 (c)(1) By August 1, 2024, the Georgia Council on Library Materials Standards shall  
179 establish standards for the designation of restricted material by local boards of education.

180 Such standards shall include, but shall not be limited to, the following provisions:

181 (A) Obscenity in any medium, including physical, electronic, visual, and audible, in  
182 public school primary instructional materials, supplementary instructional materials,  
183 and school library collection materials is not protected under the Georgia Constitution  
184 or the First Amendment to the United States Constitution;

185 (B) Sexually explicit material shall only be designated as restricted material to the  
186 extent necessary:

187 (i) To provide adequate and grade-appropriate primary instructional materials to  
188 satisfy standards established by the Georgia Council on Library Materials Standards;

189 or

190 (ii) For the full and rigorous implementation of curricula, or elements of a  
191 curriculum, that are required as part of advanced placement, international  
192 baccalaureate, or dual enrollment coursework; and

193 (C) Sexually explicit material that is designated as restricted material shall not:

194 (i) Include material that is harmful to minors;



195 (ii) Be accessible by or otherwise available or disseminated in any manner to any  
196 student in or below grade six; and

197 (iii) Be accessible by or otherwise available or disseminated in any manner to any  
198 student in or above grade seven without written consent from such student's parent or  
199 permanent guardian.

200 (2) The standards provided for in paragraph (1) of this subsection shall be reviewed and  
201 updated by June 1 each year by the Georgia Council on Library Materials Standards.

202 (3) The Department of Education shall provide technical assistance and develop and  
203 promulgate model policies and procedures to aid public schools in implementing the  
204 standards provided for in paragraph (1) of this subsection.

205 (d)(1) By August 1, 2024, the Georgia Council on Library Materials Standards shall  
206 establish standards for instructional materials used in any public school operated by a  
207 local board of education. Such standards shall include, but shall not be limited to, the  
208 following provisions:

209 (A) Obscenity in any medium, including physical, electronic, visual, and audible, in  
210 public school primary or supplementary instructional materials is not protected under  
211 the Georgia Constitution or the First Amendment to the United States Constitution;

212 (B) Each public school is permitted to exclude materials that are pervasively vulgar or  
213 educationally unsuitable from its primary and supplementary instructional materials;

214 (C) No public school shall possess, intentionally acquire, or disseminate in any manner  
215 primary or supplementary instructional material that is:

216 (i) Harmful to minors; or

217 (ii) Sexually explicit material except to the extent that such material that is designated  
218 as restricted material as provided in subsection (c) of this Code section; and

219 (D) Restricted materials that are included in instructional materials shall not:

220 (i) Include material that is harmful to minors;

221 (ii) Be accessible by or otherwise available or disseminated in any manner to any  
222 student in or below grade six; and

223 (iii) Be accessible by or otherwise available or disseminated in any manner to any  
224 student in or above grade seven without written consent from such student's parent or  
225 permanent guardian.

226 (2) The standards provided for in paragraph (1) of this subsection shall apply to each  
227 public school's acceptable use policy required by Code Section 20-2-324 and any primary  
228 or supplementary instructional materials made available or disseminated in any manner  
229 by the public school to students via the internet or any internet connected device,  
230 including, but not limited to, online learning programs, interactive learning programs,  
231 e-books, and audiobooks.

232 (3) The standards provided for in paragraph (1) of this subsection shall be reviewed and  
233 updated by June 1 each year by the Georgia Council on Library Materials Standards.

234 (4) The Department of Education shall provide technical assistance and develop and  
235 promulgate model policies and procedures to aid public schools in implementing the  
236 standards provided for in paragraph (1) of this subsection.

237 (e)(1) By August 1, 2024, the Georgia Council on Library Materials Standards, in  
238 consultation with the Georgia Public Library Service and the Georgia Archives, shall  
239 establish standards for school library programs and services in any public school operated  
240 by a local board of education. Such standards shall include, but shall not be limited to,  
241 the following provisions:

242 (A) Obscenity in any medium, including physical, electronic, visual, and audible, in  
243 public school libraries is not protected under the Georgia Constitution or the First  
244 Amendment to the United States Constitution;

245 (B) Each public school is permitted to exclude materials that pervasively vulgar or  
246 educationally unsuitable from its school library collection materials;

- 247 (C) No public school library shall possess, intentionally acquire, or disseminate in any  
248 manner school library collection material that is:
- 249 (i) Harmful to minors; or  
250 (ii) Sexually explicit material except to the extent that such material that is designated  
251 as restricted material as provided in subsection (c) of this Code section; and
- 252 (D) Restricted materials that are included in school library collection materials:
- 253 (i) Shall not include material that is harmful to minors;  
254 (ii) Shall be located and maintained in a restricted area which is not accessible by any  
255 student in or below grade six and which may be accessed by a student in or above  
256 grade seven only with written consent from such student's parent or permanent  
257 guardian;  
258 (iii) Shall not be accessible by or otherwise available or disseminated in any manner  
259 to any student in or below grade six; and  
260 (iv) Be accessible by or otherwise available or disseminated in any manner to any  
261 student in or above grade seven without written consent from such student's parent or  
262 permanent guardian.
- 263 (2) The standards provided for in paragraph (1) of this subsection shall apply to each  
264 public school's acceptable use policy required by Code Section 20-2-324 and any school  
265 library collection materials made available or disseminated in any manner by the public  
266 school to students via the internet or any internet connected device, including, but not  
267 limited to, online learning programs, interactive learning programs, e-books, and  
268 audiobooks.
- 269 (3) The standards provided for in paragraph (1) of this subsection shall be reviewed and  
270 updated by June 1 each year by the Georgia Council on Library Materials Standards.
- 271 (4) The Department of Education shall provide technical assistance and develop and  
272 promulgate model policies and procedures to aid public schools in implementing the  
273 standards provided for in paragraph (1) of this subsection.

- 274 (f)(1) Beginning December 1, 2024, each local board of education shall:  
275 (A) Not accept possession of, acquire, or recommend the acquisition of, by any means,  
276 any primary instructional material from any vendor unless such primary instructional  
277 material has a rating which indicates whether any portion of such primary instructional  
278 material includes sexually explicit material;  
279 (B) Request to receive by June 1 each year from each vendor providing primary  
280 instruction materials to such local board of education a list of each item provided by  
281 such vendor during the preceding year that includes sexually explicit materials; and  
282 (C) Not enter into any new or renewed contractual or other arrangement for acquiring  
283 primary instructional materials with any vendor that does not agree to provide:  
284 (i) Ratings for primary instructional materials which indicate whether any portion of  
285 such primary instructional material includes sexually explicit material; and  
286 (ii) The list provided for in paragraph (2) of this subsection.  
287 (2) By June 15 each year, each local board of education shall post on its public website  
288 a list of all primary instructional materials used during the preceding school year that  
289 included sexually explicit material.  
290 (g)(1) Beginning December 1, 2024, no school library operated by a local board of  
291 education shall intentionally acquire by any means sexually explicit material or material  
292 that is harmful to minors for inclusion in its school library collection materials.  
293 (2) By July 1 each year, each local board of education shall review the contents of the  
294 school library collection materials designated as restricted material and determine  
295 whether such materials shall continue to be included in the school library collection  
296 materials. A list of such restricted materials shall be published on the public website of  
297 each local board of education.  
298 (3) By August 1 each year, each local board of education shall provide a list to the  
299 Department of Education of the restricted materials that will continue to be included in  
300 its school library collection materials as provided in paragraph (2) of this subsection. The

301 Department of Education shall annually compile and publish such list on its public  
302 website.

303 (h) The complaint resolution provisions of Code Section 20-2-324.6 shall apply to this  
304 Code section; provided, however, that, while a complaint is pending, the associated  
305 material shall be embargoed from use or accessibility by any student."

306 **SECTION 5.**

307 All laws and parts of laws in conflict with this Act are repealed.