

By: Toth

H.B. No. 2736

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to requirements regarding certain student resources  
3 provided to public and private school students by a public or  
4 private primary or secondary school, institution of higher  
5 education, state agency, or public library.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subchapter A, Chapter 38, Education Code, is  
8 amended by adding Section 38.043 to read as follows:

9 Sec. 38.043. REQUIREMENTS REGARDING CERTAIN STUDENT  
10 RESOURCES. (a) In this section:

11 (1) "Institution of higher education" has the meaning  
12 assigned by Section 61.003.

13 (2) "Library" means:

14 (A) a public library or a library system, as  
15 defined by Section 441.122, Government Code;

16 (B) a library operated by an institution of  
17 higher education, a school district, or an open-enrollment charter  
18 school; or

19 (C) a library operated by a state agency or  
20 political subdivision.

21 (3) "Provider" means a person, including a vendor, who  
22 provides student resources.

23 (4) "Student" means a child enrolled as a student in  
24 prekindergarten through 12th grade in a public or private school in

1 this state.

2 (5) "Student resources" means physical, digital, or  
3 online library resources, access to databases, and curriculum and  
4 supportive materials for use by a student.

5 (b) A school district, open-enrollment charter school,  
6 private school, institution of higher education, state agency, or  
7 library may not provide student resources to a student unless the  
8 resource has been verified by the provider of the resource for  
9 compliance with Subsection (c).

10 (c) A provider shall adopt safety policies and technology  
11 protections to verify that the student resources the provider  
12 provides to a school district, open-enrollment charter school,  
13 private school, institution of higher education, state agency, or  
14 library:

15 (1) do not contain or allow access to a communication,  
16 written description, photographic image, video image, or audio  
17 file, that relates to, depicts, or describes:

18 (A) a material or performance that is obscene, as  
19 defined by Section [43.21](#), Penal Code;

20 (B) child pornography, as described by Section  
21 [43.26](#), Penal Code; or

22 (C) sexual exploitation, as defined by Section  
23 [81.001](#), Civil Practice and Remedies Code;

24 (2) do not allow a student to receive, send, upload, or  
25 download a communication, written description, photographic image,  
26 video image, or audio file described by Subdivision (1); and

27 (3) filter or block a student's access to an item

1 described by Subdivisions (1) and (2).

2 (d) Before providing any student resources to a school  
3 district, open-enrollment charter school, private school,  
4 institution of higher education, state agency, or library, a  
5 provider shall notify the receiving entity regarding whether those  
6 student resources comply with Subsection (c).

7 (e) If a contract between a provider and a school district,  
8 open-enrollment charter school, private school, institution of  
9 higher education, state agency, or library for the provision of  
10 student resources is in effect, failure by a provider to comply with  
11 Subsections (c) and (d) entitles the representative of a school  
12 district, open-enrollment charter school, private school,  
13 institution of higher education, state agency, or library to:

14 (1) terminate the contract for nonperformance or  
15 breach of contract; or

16 (2) withhold any further payments, if any, to the  
17 provider pending verification and notice of compliance with  
18 Subsections (c) and (d).

19 (f) This section may not be construed to limit or otherwise  
20 affect a person's criminal liability under other law.

21 SECTION 2. Not later than December 1 of each year, each  
22 entity that receives "student resources" from a "provider," as  
23 those terms are defined by Section 38.043, Education Code, as added  
24 by this Act, shall report to the legislature regarding any issues  
25 with provider compliance related to the requirements of that  
26 section.

27 SECTION 3. This Act takes effect September 1, 2023.