

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 13  
By: Paxton et al.  
Education  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The proposed legislation provides increased structure and transparency to the processes and standards for school library book acquisition and review policies to ensure that school library collections are appropriate for their campuses based on state standards relating to grade, age, and developmental appropriateness, as well as community values.

These goals are accomplished using a multifaceted approach, modeled after procedures from both the Texas State Library and Archives Commission (TSLAC) best practices as well as from the Texas Education Agency (TEA) model policy for library materials.

The proposed local school library advisory councils charged with overseeing school districts' procurement of new materials and review of any challenged materials are modeled after the school health advisory councils (SHACs). SHACs provide local oversight in selecting a school district's health curriculum to ensure that these materials meet state standards but also reflect local values, principles at the core of this proposed legislation.

Additionally, the proposed legislation affirms that a parent has the right to access the school's records of the materials their child checks out from the school library. While some school districts already provide parents easy mechanisms for checking one's student's library records to promote transparency and parental engagement in one's child's education, all school districts should provided such access to their students' parents. All parents should be afforded the transparency they are entitled to as the ultimate decider of their child's education in all aspects of their child's education, including in the school library.

As proposed, S.B. 13 amends current law relating to a school district's library materials and catalog, the creation of local school library advisory councils, and parental rights regarding public school library catalogs and access by the parent's child to library materials and to affirmative defenses to prosecution for certain offenses involving material or conduct that is obscene or otherwise harmful to children.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 26.004(b), Education Code, as follows:

(b) Provides that a parent is entitled to access to all written records of a school district concerning the parent's child, including records relating to school library materials the child obtains from a school library. Makes nonsubstantive changes.

SECTION 2. Amends Chapter 26, Education Code, by adding Section 26.017, as follows:

Sec. 26.017. NOTICE REGARDING SCHOOL LIBRARY MATERIALS. (a) Requires a school district to provide written notice, before each school year, to a parent of each child

enrolled in the district regarding the option to receive notice each time the child obtains a school library material from a school library in the district.

(b) Requires the school district to notify the parent by e-mail each time the parent's child obtains a school library material from a school library in the district for each parent who elects to receive notice under Subsection (a). Requires that the notice include, as applicable, the title, author, genre, and return date of the school library material.

SECTION 3. Amends Subchapter B, Chapter 33, Education Code, by adding Section 33.020, as follows:

Sec. 33.020. DEFINITIONS. Defines "harmful material" and "library material."

SECTION 4. Amends Section 33.021, Education Code, as follows:

Sec. 33.021. LIBRARY STANDARDS. (a) Requires the Texas State Library and Archives Commission (TSLAC), rather than TSLAC in consultation with the State Board of Education (SBOE), to submit proposed standards, rather than to adopt standards, for school library services to SBOE for approval or disapproval.

(b) Requires that the standards approved under Subsection (a) include a collection development policy that:

(1) prohibits the acquisition or retention of harmful material; and

(2) demonstrates a commitment to compliance with the Children's Internet Protection Act (Pub. L. No. 106-554), including through the use of technology protection measures, as defined by that Act.

(c) Requires a school district to adhere to, rather than to consider, the standards approved under Subsection (a) in developing, implementing, or expanding library services.

SECTION 5. Amends Subchapter B, Chapter 33, Education Code, by adding Sections 33.026, 33.027, and 33.028, as follows:

Sec. 33.026. LOCAL SCHOOL LIBRARY ADVISORY COUNCIL. (a) Requires the board of trustees of each school district (board) to establish a local school library advisory council (council) to assist the district in ensuring that local community values are reflected in each school library catalog in the district.

(b) Requires a school district to consider the recommendations of council before making changes to a school library catalog.

(c) Provides that the council's duties include recommending:

(1) policies and procedures for the procurement of library materials consistent with local community values;

(2) library materials appropriate for each grade level;

(3) if feasible, joint use agreements or strategies for collaboration between the school district and local public libraries and community organizations;

(4) the removal of any library materials that the council determines to be harmful material or inconsistent with local community values; and

(5) the action to be taken by the district in response to a challenge received under Section 33.028.

(d) Requires that any recommendation made by the council adhere to the library standards approved under Section 33.021 (Library Standards).

(e) Requires the board to appoint at least five members to the council. Requires a majority of the members to be persons who are parents of students enrolled in the district and who are not employed by the district. Requires one of those members to serve as chair of the council. Authorizes the board to also appoint one or more persons to serve as nonvoting members of the council from each of the following groups:

(1) classroom teachers employed by the district;

(2) librarians employed by the district;

(3) school counselors certified under Subchapter B (Certification of Educators), Chapter 21, employed by the district;

(4) school administrators employed by the district;

(5) district students;

(6) the business community; and

(7) the clergy.

(f) Requires the council to meet at least two times each year. Requires the council, for each meeting, to:

(1) at least 72 hours before the meeting:

(A) post notice of the date, hour, place, and subject of the meeting on a bulletin board in the central administrative office of each campus in the school district; and

(B) ensure that the notice required under Paragraph (A) is posted on the district's Internet website, if the district has an Internet website;

(2) prepare and maintain minutes of the meeting that state the subject and content of each deliberation and each vote, order, decision, or other action taken by the council during the meeting;

(3) make an audio or video recording of the meeting; and

(4) not later than the 10th day after the meeting, submit the minutes and audio or video recording of the meeting to the district.

(g) Requires the school district, as soon as practicable after receipt of the minutes and audio or video recording under Subsection (f)(4), to post the minutes and audio or video recording on the district's Internet website, if the district has an Internet website.

**Sec. 33.027. PROCUREMENT OF LIBRARY MATERIALS.** (a) Requires the board to adopt a policy for the procurement of library materials. Requires that the policy require the board to:

(1) approve all library materials to be procured by a school library in the district, with the advice and recommendations of the district's council established under Section 33.026;

(2) make the list of library materials proposed to be procured accessible for review by the public for at least 30 days before final approval;

(3) approve or reject the list of library materials proposed to be procured in an open meeting; and

(4) ensure compliance with the library standards approved under Section 33.021.

(b) Entitles each member of the board to:

(1) review each list of library materials proposed to be procured for a school library in the district; and

(2) propose changes to each list described by Subdivision (1) before the board votes to approve or reject the list.

**Sec. 33.028. CHALLENGE OR APPEAL REGARDING LIBRARY MATERIALS; LOCAL SCHOOL LIBRARY ADVISORY COUNCIL RECOMMENDATIONS.** (a) Authorizes a parent of or person standing in parental relation to a student enrolled in a school district or a person residing in the district to submit:

(1) to the district a written challenge to any library material in the catalog of a school library in the district using the form adopted under Subsection (c); or

(2) to the district's board an appeal of an action taken by the district in response to a written challenge received under Subdivision (1).

(b) Requires a school district to provide a copy of the challenge to the district's council established under Section 33.026 not later than the fifth day after the date on which the district receives a written challenge under Subsection (a)(1). Requires the council to make a recommendation for action by the district not later than the 90th day after the date on which the council receives the copy.

(c) Requires the Texas Education Agency (TEA) to adopt and post on TEA's Internet website a form to be used in making a written challenge under Subsection (a)(1). Requires each school district to post the form on the district's Internet website, if the district has an Internet website. Requires that the form require the person submitting the form to identify how the challenged library material violates the library standards approved under Section 33.021.

(d) Requires the board, in taking action on a written challenge submitted under Subsection (a)(1) or an appeal under Subsection (a)(2), to consider:

(1) the advice of the district's council; and

(2) whether the library material challenged under Subsection (a)(1) or appealed under Subsection (a)(2) is suitable for the subject and grade level for which the library material is intended, including by considering:

(A) whether the material adheres to the library standards approved under Section 33.021; and

(B) reviews, if any, of the material conducted by academic experts specializing in the subject covered by the library material or in the education of students in the subject and grade level for which the library material is intended.

SECTION 6. Amends Section 43.24(c), Penal Code, as follows:

(c) Provides that it is an affirmative defense to prosecution under Section 43.24 (Sale, Distribution, or Display of Harmful Material to Minor) that the sale, distribution, or exhibition was by a person having a bona fide judicial, law enforcement, or legislative justification, rather than scientific, educational, governmental, or other similar justification.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Requires the board of each school district, before the first day of the 2023–2024 school year, to establish and appoint members of the council as required by Section 33.026, Education Code, as added by this Act, and adopt a policy for the procurement of library materials as required by Section 33.027, Education Code, as added by this Act.

SECTION 9. Provides that this Act applies beginning with the 2023–2024 school year.

SECTION 10. Effective date: upon passage or September 1, 2023.