88R6144 DIO-F

By:  Toth H.B. No. 2736

A BILL TO BE ENTITLED

AN ACT

relating to requirements regarding certain student resources provided to public and private school students by a public or private primary or secondary school, institution of higher education, state agency, or public library.

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

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

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

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

(2)  "Library" means:

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

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

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

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

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

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

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

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

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

(A)  a material or performance that is obscene, as defined by Section 43.21, Penal Code;

(B)  child pornography, as described by Section 43.26, Penal Code; or

(C)  sexual exploitation, as defined by Section 81.001, Civil Practice and Remedies Code;

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

(3)  filter or block a student's access to an item described by Subdivisions (1) and (2).

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

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

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

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

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

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

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