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| BILL ANALYSIS |

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| C.S.H.B. 3225 |
| By: Alders |
| State Affairs |
| Committee Report (Substituted) |

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| **BACKGROUND AND PURPOSE**  In the 88th Legislative Session, Texas lawmakers attempted to protect minors from sexually explicit materials, both from Internet websites with H.B. 1181 and public school libraries with H.B. 900. However, the bill author has informed the committee that sexually explicit material can still be found in sections designated for minors in public municipal libraries across the state as no uniform standard for removing such material has been adopted into law, although other states such as Louisiana and Idaho have recently enacted laws regarding these matters. C.S.H.B. 3225 would address this issue by, among other provisions, requiring a municipal public library to annually review its collections to determine whether material curated in a minor's section contains sexually explicit material and to remove or relocate any such material found. |
| **CRIMINAL JUSTICE IMPACT**  It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision. |
| **RULEMAKING AUTHORITY**  It is the committee's opinion that rulemaking authority is expressly granted to the Texas State Library and Archives Commission in SECTION 1 of this bill. |
| **ANALYSIS**  C.S.H.B. 3225 amends the Local Government Code to prohibit a municipal public library, defined by the bill as a library that is financed and operated by a municipality and open free of charge to all members of the public under identical conditions, from maintaining sexually explicit material in a physical or electronic collection that a minor may access. The bill requires a municipal public library that maintains sexually explicit material in a physical or electronic collection to implement age verification measures to prevent minors from accessing such materials and prohibits a municipal public library from maintaining, curating, displaying, or making available for checkout sexually explicit material in a minor's section of the library. These provisions do not apply to religious materials.  C.S.H.B. 3225 requires the Texas State Library and Archives Commission (TSLAC) to establish guidelines for a municipal public library to review its collections to determine whether material curated in a minor's section contains sexually explicit material and requires TSLAC to adopt those guidelines not later than September 1, 2026. The guidelines must require a municipal public library to do the following:   * annually review its collections; * document the review process; and * adopt a process to review specific material in its collections upon petition from a member of the public and determine if the material contains sexually explicit material not later than the 10th day after the date of the receipt of the petition.   The bill requires a municipal public library that determines that the library maintains, curates, displays, or makes available sexually explicit material in a minor's section of the library or in a manner that a minor may access in violation of the bill's provisions, not later than the 45th day after the date the library makes the determination, to remove or relocate the sexually explicit material in a manner that prevents access to the material by a minor.  C.S.H.B. 3225 authorizes TSLAC to require documentation of compliance with the bill's provisions to determine eligibility for state library grants. The bill conditions a municipal public library's eligibility to receive a grant from TSLAC on the library doing the following:   * providing an attestation on the grant application that the library:   + does not maintain sexually explicit material in any physical or electronic collection designated for minors;   + implements age verification measures to prevent minors from accessing sexually explicit material; and   + does not maintain, curate, display, or make available for checkout sexually explicit material in a minor's section of the library; and * confirming its adherence to the guidelines established by TSLAC for a library to be eligible for a grant from TSLAC.   C.S.H.B. 3225 does the following:   * makes a municipal public library that violates the bill's provisions regarding access to sexually explicit material liable to the state for a civil penalty capped at $10,000 for each violation; * authorizes the attorney general to bring an action to recover that civil penalty or obtain a temporary or permanent injunction to restrain the violation; * authorizes such an action to be brought in a district court in Travis County or a county in which any part of the violation occurs; * requires the attorney general to deposit a civil penalty collected under the bill in the state treasury to the credit of the general revenue fund; * authorizes the attorney general to recover reasonable expenses incurred in bringing such an action, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses; and * authorizes TSLAC to adopt rules necessary to administer the bill's provisions.   C.S.H.B. 3225 defines the following for purposes of its provisions:   * "access" means the ability to check out or be provided with library material in any format in the library's catalog by library staff or an automated system; * "curate" means to select, organize, or place material within a specific physical or electronic section or collection of a municipal public library; * "minor" means an individual who is younger than 18 years of age; * "minor's section" means any section of a municipal public library, including a shelf, physical space, or electronic catalog, that is designated or labeled in a manner that indicates its primary audience includes individuals who are younger than 18 years of age; * "sexual conduct" includes the following:   + any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person;   + actual or simulated sexual intercourse;   + any contact between the genitals of one person and the mouth or anus of another person;   + sexual bestiality;   + masturbation;   + sado-masochistic abuse; or   + lewd exhibition of the genitals, the anus, or any portion of the female breast below the top of the areola; and * "sexually explicit material" means any communication, language, or material, including a written description, illustration, photographic image, video image, or audio file, that describes, depicts, or portrays sexual conduct.   C.S.H.B. 3225 requires each municipal public library to conduct the required review of its collections as provided by the bill not later than January 1, 2027. |
| **EFFECTIVE DATE**  September 1, 2025. |
| **COMPARISON OF INTRODUCED AND SUBSTITUTE**  While C.S.H.B. 3225 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.  The introduced and the substitute both define certain terms for purposes of the bill's provisions but differ in the following respects:   * whereas the introduced defined "sexual conduct" by reference to the meaning of that term under Penal Code provisions relating to the offense of sexual performance by a child, the substitute establishes a separate definition of "sexual conduct" applicable to the bill's provisions that is similar to the Penal Code definition; * whereas the introduced version defined "access" as the ability to check out, or to be provided a copy of a particular material in a physical or electronic format or in any other manner by library staff or automated systems, the substitute defines that term as the ability to check out or be provided with library material in any format in the library's catalog by library staff or an automated system; * the substitute revises the introduced version's provision establishing that "curate" means to select, organize, or place materials within a specific section or collection of a municipal public library by clarifying that the term applies with respect to sections or collections that are either physical or electronic; and * the substitute revises the introduced version's definition of "minor's section" by doing the following:   + omitting language that included in the term a section of a municipal public library designated for children, teens, or young adults and specifying instead that the term includes a section of a municipal public library that is designated in a manner that indicates its primary audience includes individuals who are younger than 18 years of age, in addition to sections labeled in such a manner as specified in both the introduced and the substitute; and   + specifying that an applicable section of a municipal public library includes a shelf, physical space, or electronic catalog.   The substitute prohibits a municipal public library from maintaining sexually explicit material in a minor's section of the library, which the introduced did not prohibit.  Whereas the introduced required a municipal public library that determines that the library curates, displays, or makes available for checkout any sexually explicit material in a minor's section in violation of the bill's provisions to take certain actions not later than the 45th day after the date the library makes the determination, the substitute requires a municipal public library that determines that the library maintains, curates, displays, or makes available sexually explicit material in a minor's section of the library or in a manner that a minor may access in violation of the bill's provisions to take those actions by that deadline.  The substitute omits the provision from the introduced that did the following:   * authorized TSLAC to monitor and enforce compliance with the bill's provisions; and * established that, if TSLAC determines that a municipal public library has violated the bill's provisions and has not removed or relocated sexually explicit material that is the subject of the violation by the 45th day after the date TSLAC notifies the library of the violation, the state or a political subdivision may not provide funds to the municipal public library for the fiscal year following the year in which the library is found to be in violation.   The substitute includes a provision, absent from the introduced, that does the following instead:   * authorizes TSLAC to require documentation of compliance with the bill's provisions to determine eligibility for state library grants; and * conditions a municipal public library's eligibility to receive a grant from TSLAC on the library confirming its adherence to the guidelines established by TSLAC for a library to be eligible for a grant from TSLAC and providing an attestation on the grant application that the library:   + does not maintain sexually explicit material in any physical or electronic collection designated for minors;   + implements age verification measures to prevent minors from accessing sexually explicit material; and   + does not maintain, curate, display, or make available for checkout sexually explicit material in a minor's section of the library.   The substitute extends the deadline by which TSLAC must adopt the guidelines for a municipal public library to review its collections as provided by the bill from not later than January 1, 2026, as in the introduced, to not later than September 1, 2026. |