89R20908 DNC-D

By:  Alders, Hefner, Metcalf, Leo Wilson, H.B. No. 3225

     et al.

Substitute the following for H.B. No. 3225:

By:  Geren C.S.H.B. No. 3225

A BILL TO BE ENTITLED

AN ACT

relating to the prohibition of access by minors to sexually explicit materials in municipal public library collections; providing a civil penalty.

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

SECTION 1.  Subtitle A, Title 10, Local Government Code, is amended by adding Chapter 310 to read as follows:

CHAPTER 310. SEXUALLY EXPLICIT MATERIALS IN MUNICIPAL PUBLIC LIBRARY COLLECTIONS

Sec. 310.001.  DEFINITIONS. In this chapter:

(1)  "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.

(2)  "Commission" means the Texas State Library and Archives Commission.

(3)  "Curate" means to select, organize, or place material within a specific physical or electronic section or collection of a municipal public library.

(4)  "Minor" means an individual who is younger than 18 years of age.

(5)  "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.

(6)  "Municipal public library" means a library that is:

(A)  financed and operated by a municipality; and

(B)  open free of charge to all members of the public under identical conditions.

(7)  "Sexual conduct" includes:

(A)  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;

(B)  actual or simulated sexual intercourse;

(C)  any contact between the genitals of one person and the mouth or anus of another person;

(D)  sexual bestiality;

(E)  masturbation;

(F)  sado-masochistic abuse; or

(G)  lewd exhibition of the genitals, the anus, or any portion of the female breast below the top of the areola.

(8)  "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.

Sec. 310.002.  ACCESS TO SEXUALLY EXPLICIT MATERIAL. (a) A municipal public library may not maintain sexually explicit material in a physical or electronic collection that a minor may access.

(b)  A municipal public library that maintains sexually explicit material in a physical or electronic collection shall implement age verification measures to prevent minors from accessing such materials.

(c)  A municipal public library may not maintain, curate, display, or make available for checkout sexually explicit material in a minor's section of the library.

(d)  This section does not apply to religious materials.

Sec. 310.003.  REVIEW OF LIBRARY COLLECTIONS. (a) The commission shall 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. The guidelines must require a municipal public library to:

(1)  annually review its collections;

(2)  document the review process; and

(3)  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.

(b)  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 Section 310.002 shall, not later than the 45th day after the date the library makes the determination, remove or relocate the sexually explicit material in a manner that prevents access to the material by a minor.

Sec. 310.004.  ELIGIBILITY FOR STATE GRANTS. (a) The commission may require documentation of compliance with this chapter to determine eligibility for state library grants.

(b)  A municipal public library is not eligible to receive a grant from the commission unless the library:

(1)  provides an attestation on the grant application that the library:

(A)  does not maintain sexually explicit material in any physical or electronic collection designated for minors;

(B)  implements age verification measures to prevent minors from accessing sexually explicit material; and

(C)  does not maintain, curate, display, or make available for checkout sexually explicit material in a minor's section of the library; and

(2)  confirms its adherence to the guidelines established by the commission for a library to be eligible for a grant from the commission.

Sec. 310.005.  CIVIL PENALTY; INJUNCTION. (a) A municipal public library that violates Section 310.002 is liable to the state for a civil penalty of not more than $10,000 for each violation.

(b)  The attorney general may bring an action to:

(1)  recover the civil penalty imposed under this section; or

(2)  obtain a temporary or permanent injunction to restrain the violation.

(c)  An action under this section may be brought in a district court in:

(1)  Travis County; or

(2)  a county in which any part of the violation occurs.

(d)  The attorney general shall deposit a civil penalty collected under this section in the state treasury to the credit of the general revenue fund.

(e)  The attorney general may recover reasonable expenses incurred in bringing an action under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

Sec. 310.006.  RULES. The commission may adopt rules necessary to administer this chapter.

SECTION 2.  Not later than September 1, 2026, the Texas State Library and Archives Commission shall adopt the guidelines for municipal public library collection reviews as required under Section 310.003, Local Government Code, as added by this Act.

SECTION 3.  Not later than January 1, 2027, each municipal public library shall conduct the review required by Section 310.003, Local Government Code, as added by this Act.

SECTION 4.  This Act takes effect September 1, 2025.