

HOUSE BILL 2457

By Lynn

AN ACT to amend Tennessee Code Annotated, Title 49,
relative to K-12 education.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-6-3802, is amended by deleting the section and substituting instead:

As used in this part, unless the context otherwise requires:

(1) "Library collection" means the materials made available to students by a school operated by an LEA or by a public charter school, including classroom libraries, but does not include materials made available to students as part of a course curriculum;

(2) "Materials" means books, periodicals, newspapers, manuscripts, films, prints, documents, microfilm, discs, cassettes, videotapes, videogames, applications, and subscription content in any form;

(3) "Sexually explicit content" means any of the following, but is not limited to:

(A) Masturbation or lewd exhibition, whether actual, simulated, animated, described, or alluded to, of the genitals, pubic hair, anus, vulva, or female breast nipples;

(B) Sadoomasochistic abuse, meaning actual, simulated, animated, description of, or allusion to flagellation or torture by or upon a person, or in the condition of being fettered, bound, or otherwise physically restrained;

(C) Actual, simulated, animated, description of, or allusion to touching, caressing, or fondling of, or other similar physical contact with a pubic area, anus, female breast nipple, covered or exposed, whether alone or between

humans, animals, or a human and an animal, of the same or opposite sex, in an act of apparent sexual stimulation or gratification;

(D) Actual, simulated, animated, description of, or allusion to stimulation of human genital organs by a device whether or not the device is designed, manufactured, or marketed for that purpose;

(E) Actual, simulated, animated, description of, or allusion to sex acts, whether between human beings, animals, or a human being and an animal;

(F) Incest, whether described or implied;

(G) Prostitution of a male or female adult or child, whether described or implied;

(H) Rape of a male or female adult or child, whether described or implied; and

(I) Sexual acts on any part of the human body, including fantasy depictions whether described or implied;

(4) "Sexually explicit material" means a material that contains sexually explicit content; and

(5) "Stakeholder" means a student enrolled in the respective school, the parent or guardian of a student enrolled in the respective school, an employee of the respective school, or a resident of the school district in which the respective school is located.

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 6, Part 38, is amended by adding the following as a new section:

(a) Each principal of a public school or public charter school shall ensure that no material in the school's library collection contains sexually explicit content, regardless of the amount of sexually explicit content contained within the material, and shall remove all material that contains sexually explicit content.

(b) If a school principal is notified in writing by a stakeholder of the presence of sexually explicit material in the library collection of the school, then the principal must notify the director of schools for the LEA or the director of the public charter school in writing of the principal's receipt of such notice, and the principal must review and render a decision on the material no later than five (5) business days from the date on which the principal received the written notice from the stakeholder to confirm the presence or absence of sexually explicit content in the material. The principal shall notify the stakeholder and the director of schools for the LEA or the director of the public charter school, in writing, of whether the principal confirmed the presence of sexually explicit content in the material.

(c) If the principal confirms the presence of sexually explicit content in the material, then, regardless of the amount of sexually explicit content contained within the material, the principal must remove the sexually explicit material from the school's library collection.

(d) If the principal fails to timely review the material for sexually explicit content, as required in subsection (b); fails to notify the stakeholder and the director of schools for the LEA or the director of the public charter school, in writing, of whether the principal confirmed the presence of sexually explicit content in the material; or fails to remove sexually explicit material from the school's library collection, then the commissioner of education must withhold state funds from the LEA or public charter school, in the current or upcoming school year, in the following amounts:

- (1) For a first or second violation in one (1) school year, a warning describing the reduction in funding that could result if more violations are found;
- (2) For a third violation committed in one (1) school year, two percent (2%) of the annual state funds generated by the school in the TISA;

(3) For a fourth violation committed in one (1) school year, four percent (4%) of the annual state funds generated by the school in the TISA;

(4) For a fifth violation committed in one (1) school year, six percent (6%) of the annual state funds generated by the school in the TISA;

(5) For a sixth violation committed in one (1) school year, eight percent (8%) of the annual state funds generated by the school in the TISA; and

(6) For a seventh violation committed in one (1) school year, ten percent (10%) of the annual state funds generated by the school in the TISA.

(e) If funds are withheld pursuant to subsection (d), then the funds must be withheld until the LEA or public charter school has remedied the violation by ensuring that the school principal:

(1) Timely reviews the material for sexually explicit content, as required in subsection (b), and notifies the stakeholder and the director of schools for the LEA or the director of the public charter school, the department of education, and the state textbook and instructional materials quality commission, in writing, of whether the principal confirmed the presence or absence of sexually explicit content in the material; or

(2) Provides sufficient evidence, as determined by the state textbook and instructional materials quality commission, to the commission and the department of education that the sexually explicit material has been removed from the school's library collection.

(f) The percentage of any funds withheld pursuant to subsection (d) must be calculated by the department based on the amount of state funds generated by the school in the TISA for the previous school year. If a public charter school did not generate state funds in the previous school year, then the percentage of any funds

withheld pursuant to subsection (d) must be based on the average amount of state funds generated by the schools in the LEA in which the public charter school is located.

(g) If a stakeholder who notified a principal of the presence of sexually explicit content in material contained in the library collection of the principal's school disagrees with the principal's determination that the material does not contain sexually explicit content, then the stakeholder may appeal the determination to the state textbook and instructional materials quality commission. The commission shall review the material and render a decision within sixty (60) business days of the appeal being filed.

(h) The state textbook and instructional materials quality commission shall provide notice of its determination regarding the material to the stakeholder, the principal who made the original determination, the director of schools for the LEA or the director of the public charter school, and the commissioner of education.

(i) If the state textbook and instructional materials quality commission determines that the material contains sexually explicit content, then the principal must remove the sexually explicit material. A failure to remove the sexually explicit material subjects the LEA or public charter school to the penalties of subsection (d). The LEA or public charter school may remedy the violation pursuant to subsection (e).

(j) The state textbook and instructional materials quality commission shall compile an annual report on the appeals the commission received pursuant to subsection (g). The commission shall submit the report on or before July 1 of each year to the speaker of the senate, the speaker of the house of representatives, the chair of the education committee of the senate, and the chairs of the education administration and education instruction committees of the house of representatives. The report must contain:

(1) The district from which the appeal was received;

- (2) The name of the school from where the original notification was filed;
- (3) The name, author, and publisher of the book; and
- (4) The current status of the review by the commission.

SECTION 3. This act takes effect July 1, 2024, the public welfare requiring it, and applies to the 2024-2025 school year and each school year thereafter.