Senate Bill 394

By: Senators Dixon of the 45th, Anavitarte of the 31st, Robertson of the 29th, Kennedy of the 18th, Hickman of the 4th and others

A BILL TO BE ENTITLED

AN ACT

To amend Part 15 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to miscellaneous provisions of the "Quality Basic Education Act," so as to enact the "Restricting Explicit and Adult-designated Educational Resources (READER) Act"; to provide for definitions, including definitions for the terms "harmful to minors," "restricted materials," and "sexually explicit materials"; to require the State Board of Education to establish standards for the designation of restricted materials by local boards of education, standards for the use and restriction of instructional materials, and standards for the use and restriction of public school library collection materials; to require the State Board of Education to annually update such standards; to require the Department of Education to provide technical support to local boards of education for implementing such standards; to require local boards of education to adopt and annually update policies and procedures that comply with such standards; to provide for certain instructional materials to include ratings which indicate whether any portion of such material includes sexually explicit material; to prohibit local boards of education from acquiring instructional materials from vendors who do not provide such ratings and other required information; to require local boards of education to periodically publish lists of instructional materials that include sexually explicit materials; to require periodic review of restricted materials in public school library collection materials and determination of what restricted materials should be retained; to require local boards of education to periodically provide to the Department of Education

a list of restricted materials included in its school library collection materials; to require the Department of Education to publish such lists; to provide that existing complaint resolution policies for materials that are harmful to minors shall apply, subject to an embargo provision; to revise and expand the definition of "harmful to minors" regarding the complaint resolution policy for materials that are harmful to minors; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Restricting Explicit and Adult-designated Educational Resources (READER) Act."

SECTION 2.

Part 15 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to miscellaneous provisions of the "Quality Basic Education Act," is amended by revising subsection (a) of Code Section 20-2-324.6, relating to complaint resolution policy for materials "harmful to minors," as follows:

"(a) As used in this Code section, 'harmful to minors' ~~means~~:

(1) Means that quality of description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it:

~~(1)~~(A) Taken as a whole, predominantly appeals to the prurient, shameful, or morbid interest of minors;

~~(2)~~(B) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

~~(3)~~(C) Is, when taken as a whole, lacking in serious literary, artistic, political, or scientific value for minors; and

(2) Includes 'sexually explicit material' excepting 'restricted material,' as such terms are defined in Code Section 20-2-324.7.″

SECTION 3.

Said part is further amended by adding a new Code Section to read as follows:

″20-2-324.7.

(a) As used in this Code section, the term:

(1) 'Harmful to minors' has the meaning given to such term in Code Section 20-2-324.6.

(2) 'Local board of education' means the local board of education of each local school system or other public school governing body that receives state funding under this article.

(3) 'Primary instructional material' means instructional materials and content, as defined by the State Board of Education pursuant to Code Section 20-2-1010, and locally approved instructional materials and content, as defined in subsection (a) of Code Section 20-2-1017, in any medium, including physical, electronic, visual, and audible.

(4) 'Restricted material' means primary instructional material or school library collection material that is so designated as provided in subsection (c) of this Code section notwithstanding whether such material is or may be sexually explicit material.

(5) 'School library collection material' means any material in any medium, including physical, electronic, visual, and audible, located within or accessible from a school library that is available to a student or is made available to a student by school personnel.

(6) 'Sexually explicit material' means any primary instructional material, supplementary instructional material, or school library collection material that describes, depicts, renders, or portrays in any medium, including physical, electronic, visual, and audible, sexually explicit conduct, as defined in Code Section 16-12-100, sadomasochistic abuse, as defined in Code Section 16-12-102, sexual conduct, as defined in Code Section 16-12-102, or sexually explicit nudity, as defined by Code Section 16-12-102; provided,

however, that such term shall not include materials of great religious or historical significance that do not describe, depict, render, or portray sexually explicit material in a patently offensive way.

(7) 'Supplementary instructional material' means any materials other than primary instructional materials in any medium, including physical, electronic, visual, and audible, that are included, or are intended to be included, by a teacher or other school personnel for use as part of a classroom discussion or other classroom activity or are recommended by a teacher or other school personnel for review by one or more students.

(b)(1)(A) By December 1, 2024, each local board of education shall adopt policies and procedures that comply with the standards established by the State Board of Education as provided in subsections (c) through (e) of this Code section.

(B) By August 1, 2025, and each year thereafter, each local board of education shall adopt or update policies and procedures that comply with any updated standards established by the State Board of Education as provided in paragraph (2) of subsection (c), paragraph (3) of subsection (d), and paragraph (3) of subsection (e) of this Code section.

(2) Beginning December 1, 2024, and continuing thereafter, no local board of education shall permit restricted material to:

(A) Include material that is harmful to minors;

(B) Be accessible by or otherwise available or disseminated in any manner to any student in or below grade six; or

(C) Be accessible by or otherwise available or disseminated in any manner to any student in or above grade seven without written consent from such student's parent or permanent guardian.

(c)(1) By August 1, 2024, the State Board of Education shall establish standards for the designation of restricted material by local boards of education. Such standards shall include, but shall not be limited to, the following provisions:

(A) Obscenity in any medium, including physical, electronic, visual, and audible, in public school primary instructional materials, supplementary instructional materials, and school library collection materials is not protected under the Georgia Constitution or the First Amendment to the United States Constitution;

(B) Sexually explicit material shall only be designated as restricted material to the extent necessary:

(i) To provide adequate and grade-appropriate primary instructional materials to satisfy standards established by the State Board of Education; or

(ii) For the full and rigorous implementation of curricula, or elements of a curriculum, that are required as part of advanced placement, international baccalaureate, or dual enrollment coursework;

(C) Sexually explicit material that is designated as restricted material shall not:

(i) Include material that is harmful to minors;

(ii) Be accessible by or otherwise available or disseminated in any manner to any student in or below grade six; and

(iii) Be accessible by or otherwise available or disseminated in any manner to any student in or above grade seven without written consent from such student's parent or permanent guardian.

(2) The standards provided for in paragraph (1) of this subsection shall be reviewed and updated by June 1 each year by the State Board of Education.

(3) The Department of Education shall provide technical assistance and develop and promulgate model policies and procedures to aid public schools in implementing the standards provided for in paragraph (1) of this subsection.

(d)(1) By August 1, 2024, the State Board of Education shall establish standards for instructional materials used in any public school operated by a local board of education. Such standards shall include, but shall not be limited to, the following provisions:

(A) Obscenity in any medium, including physical, electronic, visual, and audible, in public school primary or supplementary instructional materials is not protected under the Georgia Constitution or the First Amendment to the United States Constitution;

(B) Each public school is permitted to exclude materials that are pervasively vulgar or educationally unsuitable from its primary and supplementary instructional materials;

(C) No public school shall possess, acquire, or disseminate in any manner primary or supplementary instructional material that is:

(i) Harmful to minors; or

(ii) Sexually explicit material except to the extent that such material that is designated as restricted material as provided in subsection (c) of this Code section; and

(D) Restricted materials that are included in instructional materials shall not:

(i) Include material that is harmful to minors;

(ii) Be accessible by or otherwise available or disseminated in any manner to any student in or below grade six; and

(iii) Be accessible by or otherwise available or disseminated in any manner to any student in or above grade seven without written consent from such student's parent or permanent guardian.

(2) The standards provided for in paragraph (1) of this subsection shall apply to each public school's acceptable use policy required by Code Section 20-2-324 and any primary or supplementary instructional materials made available or disseminated in any manner by the public school to students via the internet or any internet connected device, including, but not limited to, online learning programs, interactive learning programs, e-books, and audiobooks.

(3) The standards provided for in paragraph (1) of this subsection shall be reviewed and updated by June 1 each year by the State Board of Education.

(4) The Department of Education shall provide technical assistance and develop and promulgate model policies and procedures to aid public schools in implementing the standards provided for in paragraph (1) of this subsection.

(e)(1) By August 1, 2024, the State Board of Education, in consultation with the Georgia Public Library Service and the Georgia Archives, shall establish standards for school library programs and services in any public school operated by a local board of education. Such standards shall include, but shall not be limited to, the following provisions:

(A) Obscenity in any medium, including physical, electronic, visual, and audible, in public school libraries is not protected under the Georgia Constitution or the First Amendment to the United States Constitution;

(B) Each public school is permitted to exclude materials that pervasively vulgar or educationally unsuitable from its school library collection materials;

(C) No public school library shall possess, acquire, or disseminate in any manner school library collection material that is:

(i) Harmful to minors; or

(ii) Sexually explicit material except to the extent that such material that is designated as restricted material as provided in subsection (c) of this Code section; and

(D) Restricted materials that are included in school library collection materials:

(i) Shall not include material that is harmful to minors;

(ii) Shall be located and maintained in a restricted area which is not accessible by any student in or below grade six and which may be accessed by a student in or above grade seven only with written consent from such student's parent or permanent guardian;

(iii) Shall not be accessible by or otherwise available or disseminated in any manner to any student in or below grade six; and

(iv) Be accessible by or otherwise available or disseminated in any manner to any student in or above grade seven without written consent from such student's parent or permanent guardian.

(2) The standards provided for in paragraph (1) of this subsection shall apply to each public school's acceptable use policy required by Code Section 20-2-324 and any school library collection materials made available or disseminated in any manner by the public school to students via the internet or any internet connected device, including, but not limited to, online learning programs, interactive learning programs, e-books, and audiobooks.

(3) The standards provided for in paragraph (1) of this subsection shall be reviewed and updated by June 1 each year by the State Board of Education.

(4) The Department of Education shall provide technical assistance and develop and promulgate model policies and procedures to aid public schools in implementing the standards provided for in paragraph (1) of this subsection.

(f)(1) Beginning December 1, 2024, each local board of education shall:

(A) Not accept possession of, acquire, or recommend the acquisition of, by any means, any primary instructional material from any vendor unless such primary instructional material has a rating which indicates whether any portion of such primary instructional material includes sexually explicit material;

(B) Request to receive by June 1 each year from each vendor providing primary instruction materials to such local board of education a list of each item provided by such vendor during the preceding year that includes sexually explicit materials; and

(C) Not enter into any new or renewed contractual or other arrangement for acquiring primary instructional materials with any vendor that does not agree to provide:

(i) Ratings for primary instructional materials which indicate whether any portion of such primary instructional material includes sexually explicit material; and

(ii) The list provided for in paragraph (2) of this subsection.

(2) By June 15 each year, each local board of education shall post on its public website a list of all primary instructional materials used during the preceding school year that included sexually explicit material.

(g)(1) Beginning December 1, 2024, no school library operated by a local board of education shall acquire by any means sexually explicit material or material that is harmful to minors for inclusion in its school library collections material.

(2) By July 1 each year, each local board of education shall review the contents of the school library collection materials designated as restricted material and determine whether such materials shall continue to be included in the school library collection materials. A list of such restricted materials shall be published on the public website of each local board of education.

(3) By August 1 each year, each local board of education shall provide a list to the Department of Education of the restricted materials that will continue to be included in its school library collection materials as provided in paragraph (2) of this subsection. The Department of Education shall annually compile and publish such list on its public website.

(h) The complaint resolution provisions of Code Section 20-2-324.6 shall apply to this Code section; provided, however, that, while a complaint is pending, the associated material shall be embargoed from use or accessibility by any student."

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.