

House Bill 1041

By: Representatives Mathiak of the 73rd, Cantrell of the 22nd, Bonner of the 72nd, and Williams of the 145th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 3 of Article 3 of Chapter 12 of Title 16 of the Official Code of Georgia
2 Annotated, relating to sale or distribution of harmful materials to minors, so as to provide
3 that the provisions of Code Section 16-12-103 shall be applicable to libraries operated by
4 schools; to revise the criminal penalty; to provide for a civil penalty under certain
5 circumstances; to amend Article 19 of Chapter 2 of Title 20 of the Official Code of Georgia
6 Annotated, relating to instructional materials and content, so as to provide oversight by the
7 State Board of Education in prescribing preventive measures for distribution of harmful
8 materials to minors; to provide for definitions; to provide for a civil monetary penalty against
9 certain persons for selling, loaning, distributing, or exhibiting certain obscene visual
10 representations or images to students within public or private elementary or secondary
11 schools; to provide that the Board of education report the status of preventive measures and
12 establish a review committee, policies for parental access to instructional materials, and
13 minimum standards for filtering content of online materials that are harmful to minors; to
14 provide for related matters; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**SECTION 1.**

17 Part 3 of Article 3 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
18 relating to sale or distribution of harmful materials to minors, is amended by revising Code
19 Section 16-12-104, relating to library exception, as follows:

20 "16-12-104.

21 The provisions of Code Section 16-12-103 shall not apply to any public library operated
22 by the state or any of its political subdivisions nor to any library operated as a part of any
23 ~~school~~, college; or university."

24 **SECTION 2.**

25 Said part is further amended by revising Code Section 16-12-105, relating to penalty, as
26 follows:

27 "16-12-105.

28 (a) Except as provided in subsection (b) of this Code section, any person who knowingly
29 violates any provision of Code Section 16-12-103 or 16-12-104 shall be guilty of a
30 misdemeanor of a high and aggravated nature.

31 (b) Any person who violates subsection (a) of Code Section 16-12-103 shall be guilty of
32 a misdemeanor if:

33 (1) The person depicted was at least 14 years of age;

34 (2) The items described in subsection (a) of Code Section 16-12-103 were furnished or
35 disseminated with the permission of the minor depicted; and

36 (3) The defendant was 18 years of age or younger at the time of the offense.

37 (c)(1) As used in this subsection, the term:

38 (A) 'Person affiliated with a public or private elementary or secondary school in an
39 official capacity' means an administrator, teacher, librarian, media center personnel,
40 substitute teacher, teacher's assistant, student teacher, law enforcement officer, school
41 bus driver, guidance counselor, coach, guest lecturer, or guest speaker or other
42 nonschool employee who is invited to present information to students by a teacher,
43 administrator, or other school employee. Such term shall not include a student enrolled
44 in the secondary school.

45 (B) 'Student' means a minor who is enrolled in the public or private elementary or
46 secondary school.

47 (2) In addition to the penalties provided for under subsections (a) and (b) of this Code
48 section, a person affiliated with a public or private elementary or secondary school in an
49 official capacity who knowingly sells, loans, distributes, or exhibits to a student material
50 that is unlawful under Code Section 16-12-103 shall, upon conviction, be liable for a civil
51 monetary penalty to the governing body of the county wherein the public or private
52 elementary or secondary school is located in an amount of not less than \$500.00 and not
53 more than \$1,000.00 for each violation. Each day in violation of this subsection shall
54 constitute a separate offense.

55 (3) It shall not be defense under this subsection that materials sold, loaned, distributed,
56 or exhibited were labeled, used, or intended for purposes of educational use or political
57 or artistic purposes."

58 **SECTION 3.**

59 Article 19 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
60 instructional materials and content, is amended by adding a new Code section to read as
61 follows:

62 "20-2-1018.

63 Pursuant to Code Section 16-12-101, the State Board of Education shall adopt rules and
64 regulations that shall be applicable to all public elementary and secondary schools in this
65 state, which shall prescribe preventive measures that such schools shall implement to
66 prevent children from accessing materials in written, digital, visual, or audio media deemed
67 harmful under Code Section 16-12-103. Such preventive measures shall include, but not
68 be limited to the following:

69 (1) The State Board of Education shall report to the Governor and state and to the
70 chairperson of the Senate Committee on Education and Youth and the chairperson of the
71 House Education Committee, beginning one year after implementation of the rules and
72 regulations, then one year later, and then every four years thereafter:

73 (A) The status of the establishment of review committees for each local board of
74 education;

75 (B) The nature of preventive measures put in place by each local board of education;
76 and

77 (C) The results of review of educational materials, including a detailed listing of
78 harmful materials, if any, found and removed in each local board of education by
79 members of the review committees;

80 (2) Each local board of education shall establish a review committee, which shall include
81 volunteer community representatives appointed by board members; provided, however,
82 that such volunteer community representatives shall not include persons who are
83 employees of the local board of education. The committee shall review all instructional
84 materials, library materials, and media center materials, to include books and data bases,
85 to determine whether they contain materials deemed harmful to minors as provided for
86 in Code Section 16-12-103 or provide access to such materials through digital portals.
87 Upon request, members of the review committee shall be provided full access to all
88 instructional materials, both ancillary and supplemental; library materials; electronic data
89 bases; and media center materials without a requirement of prior notice;

90 (3) Review committee members as provided for in paragraph (2) of this Code section
91 shall conduct reviews of instructional materials, both ancillary and supplemental; library
92 materials; electronic data bases; and media center materials at least once per academic
93 year and at any time that new materials are proposed for inclusion in school libraries,
94 classrooms, or media centers. No new materials shall be included in school libraries,

95 classrooms, or media centers unless they have been reviewed by the committee and
96 determined not to contain materials harmful to minors;
97 (4) Review committee members as provided for in paragraph (2) of this Code section
98 shall report any instructional materials, both ancillary and supplemental; library
99 materials; electronic data bases; or media center materials that they have determined to
100 contain matter that is harmful to minors to the full review committee, which shall then
101 report such findings to the local board of education for further review and determination;
102 (5) The local board of education shall report any determinations that materials which
103 violate Code Section 16-12-103 are present in instructional materials, both ancillary and
104 supplemental; library materials; electronic data bases; or media center materials to the
105 State Board of Education member for that district who will report such findings to the
106 State Board of Education reporting department;
107 (6) Each local board of education shall establish policies for full parental access to
108 written and digital indexes or catalogs describing the local school district's instructional
109 materials, library materials, electronic data bases, or media center materials upon request.
110 Parents shall also be provided with contact information for the review committee in order
111 to report concerns about the content of the materials; and
112 (7) Each local board of education shall establish minimum standards for filtering of
113 content of materials being made available online to students, which standards shall
114 include filtering of content contained in school-owned technology provided to students
115 for use at home and in school, for example, Chromebooks, iPads, or similar digital
116 devices designed for individual use."

117 **SECTION 4.**

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