



Republican Party of Texas Legislative Priority: Stop Sexualizing Texas Kids:

Legislative Solutions Specific To Texas Schools

Repeal Texas Penal Code "Obscenity Exemption" 43.24(c), which allows children access to harmful, explicit, or pornographic materials and 43.25(f)(2 3), which allows sexual performance by a child.

In addition, prohibit teaching, exposure, and/or discussion of sexual matters (mechanics, feelings, orientation, or "gender identity" issues), and prohibit use or provision of related books and other materials using criminal, civil or other enforcement measures.

Problem:

Texas minors are being exposed to sexually inappropriate materials, discussions, and teachings through library materials, curriculum, and programs in Texas public schools.

School library materials are managed through local control, with voluntary recommendations and guidelines developed by the Texas State Library Archives Commission in consultation with the State Board of Education. Discussion of sexual matters outside of human sexuality instruction are taking place without parental consent.

Top Legislative Solutions One:

Repeal Texas Penal Code "Affirmative Defense" aka "Obscenity Exemption" 43.24(c), which allows children access to harmful, explicit, or pornographic materials and 43.25(f)(2 3), which allows sexual performance by a child.

We Recommend Striking the "Affirmative Defense Clauses" In Their Entirety:

43.24: (c) It is an affirmative defense to prosecution under this section that the sale, distribution, or exhibition was by a person having scientific, educational, governmental, or other similar justification.

43.25: 2) the conduct was for a bona fide educational, medical, psychological, psychiatric, judicial, law enforcement, or legislative purpose; or legislative purpose; or the defendant is not more than two years older than the child.

Modify the definition of the "Harmful to Minors" in 43.24, which provide significant loopholes.

We recommend changes to the current code as follows:

Sec. 43.24. SALE, DISTRIBUTION, OR DISPLAY OF HARMFUL MATERIAL TO MINOR. (a) For purposes of this section:

(1) "Minor" means an individual younger than 18 years.

(2) "Harmful material" means material ~~whose dominant theme taken as a whole:~~

(A) appeals to the prurient interest of a minor, in sex, nudity, or excretion;

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

~~(C) is utterly without redeeming social value for minors.~~

Top Legislative Solution Two:

Amend Education Code 33.021 to create **mandatory content standards** related to the content in library materials and to include language that specifically prohibits sexually explicit materials, using definitions of indecent content and profane content, as currently defined by the Federal Communications Commission (FCC).

Texas Educ. Code: 33.021 is as follows:

- a. Sec. 33.021. LIBRARY STANDARDS. The Texas State Library and Archives Commission, in consultation with the State Board of Education, shall adopt standards for school library services. A school district shall consider the standards in developing, implementing, or expanding library services.

Current recommended standards and guidelines published by TSLAC only include a reference to Texas Penal Code §43.24 (Sale, Distribution, or Display of Harmful Material to Minor). Unlike the FCC, *which regulates Obscene Content, Indecent Content, and Profane Content over the airwaves, and recognizes that protecting children from harmful content reaches far beyond the strict guidelines of what defines obscenity in the penal code, but rather what is also indecent and profane for minors.*

Top Legislative Solution Three:

A "Recognition of Parental Rights and Responsibilities Bill" Similar to Florida's Parents' Bill of Rights Act aka "Don't Say Gay" Bill, HB 241 (2021)/ HB 1557 (2021) which will:

- b. Prohibit instruction and classroom discussion about gender ideology and sexual orientation and prohibit "special programs" related to gender ideology and sexual orientation in Pk3-12 grades.
- c. Civil penalties for non-compliance; allow parents due process without going through a long complaint process first. Eliminate immunity.
- d. Require schools to tell parents when their child receives mental health services.
- e. Parent Opt-in for Special Programs/ Social Emotional Learning (SEL) programs.
- f. Amend TEC 28.004 (Remove the "August 1, 2024 Expiration" from Sex Education Opt-In HB 1525 (87th))

Top Legislative Solution Four:

Age Verification for online pornography.