

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2023 REGULAR SESSION
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Amend printed copy of **SB 5/GA**

On page 1, delete lines 5 through 13 in their entirety and insert the following in lieu thereof:

"(1) As used in this section:

(a) "Harmful to minors" means that quality of any material, program, or event containing a description, depiction, or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it:

- 1. Taken as a whole, would be found by the average person applying contemporary community standards to appeal predominantly to the prurient, shameful, or morbid interest of minors;**
- 2. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and**
- 3. Taken as a whole, would be found by a reasonable person to lack serious literary, artistic, political, or scientific values for minors;**

(b) "Matter" or "material" has the same meaning as "matter" in KRS 531.010;

(c) "Nudity" or "nude" means the:

- 1. Showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering;**
- 2. Showing the adult or adolescent female breast with less than a fully opaque**

Amendment No. HFA 1

Rep. Rep. Josh Calloway

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRD Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

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covering of any portion below the top of the areola; or

3. Depiction of covered male genitals in a discernibly turgid state;

(d) "Obscene" or "obscenity" has the same meaning as "obscene" in KRS 531.010;

(e) "Obscene imagery representing minors" means a visual depiction of any kind produced by any means, including but not limited to a drawing, cartoon, sculpture, or painting, that:

1. a. Depicts a minor engaging in sexual conduct; and

b. Is obscene; or

2. a. Depicts an image that is or appears to be of a minor engaging in graphic bestiality, sadomasochistic abuse, or sexual intercourse; and

b. Lacks serious literary, artistic, political, or scientific value; and

(f) "Sexual conduct" has the same meaning as in KRS 531.010.

(2) Notwithstanding existing criminal prohibitions in federal and state law against the distribution of material, or permitting access to an event or program, to minors that is obscene, harmful to minors, or that contains obscene imagery representing minors, no matter, performance, program, or event shall be deemed to have educational value or to be educationally suitable for students, in this Commonwealth that:

(a) Is obscene for minors;

(b) Is harmful to minors;

(c) Contains obscene imagery representing minors; or

(d) Is pervasively vulgar.

(3) The Supreme Court of the United States has established that boards of education and school administrators have significant latitude when determining educational suitability for content made optionally available to students, including in school libraries, with even greater latitude to regulate content that is required, including in course curricula, so

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long as the intent is not to prescribe what shall be orthodox in politics, nationalism, religion, or matters of opinion, or to exercise that discretion in a narrowly partisan or political manner.

(4) Winning an award, prize, or other institutional recognition that considers any factor, including but not limited to the demographic characteristics or historical significance of the content's author, or the content's broader social impact, other than the purely literary, artistic, political, or scientific value of the content for educational purposes shall not factor into the assessments in subsections (2) and (3) of this section."; and

On page 1, line 14, delete "(2)" and insert in lieu thereof "(5)"; and

On page 1, line 14, delete "July" and insert in lieu thereof "August"; and

On page 1, line 17, delete "harmful to minors" and insert in lieu thereof "not educationally suitable for students"; and

On page 1, delete lines 22 through 25 in their entirety and insert the following in lieu thereof:

"(b) Complaints provide the name of the complainant, a reasonably detailed description of the material, program, or event that is alleged to be not educationally suitable for students, and how the material, program, or event is believed to be not educationally suitable for students;"; and

On page 2, line 2, delete "harmful to minors" and insert in lieu thereof "not educationally suitable for students"; and

On page 2, line 4, delete "harmful to minors" and insert in lieu thereof "not educationally suitable for students"; and

On page 2, delete lines 5 and 6 in their entirety and insert in lieu thereof the following:

"(e) If the material, program, or event that is the subject of the complaint is determined to be not educationally suitable for students in paragraph (d) of this subsection, the

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school principal shall remove current and future student access to the subject of the complaint. Otherwise, the school principal shall determine whether student access to material that is the subject of the complaint shall remain, be restricted, or be removed;"; and

On page 2, line 14, delete "**harmful to minors**" and insert in lieu thereof "**not educationally suitable for students**"; and

On page 2, line 22, after "**meeting**" insert "**prior to the appeal being voted upon**"; and

On page 2, line 23, delete "**Be completed within thirty (30) calendar days of receiving**" and insert in lieu thereof "**Have a review of the facts and processes completed within thirty (30) calendar days of receiving**"; and

On page 2, delete lines 26 and 27 and on page 3, delete line 1 and insert in lieu thereof the following:

"4. Be discussed and voted on during a meeting of the local board of education within seventy-five (75) calendar days of receiving the written appeal unless another time frame is mutually agreed upon by the parent or guardian and the local board of education, subject to the open records and open meeting requirements;"; and

On page 3, line 4, delete "**harmful to minors**" and insert in lieu thereof "**not educationally suitable for students**"; and

On page 3, line 10, delete "**harmful to minors**" and insert in lieu thereof "**not educationally suitable for students**"; and

On page 3, line 18, delete "**(3)**" and insert in lieu thereof "**(6)**"; and

On page 3, line 19, delete "**(2)(i)**" and insert in lieu thereof "**(5)(i)**"; and

On page 3, line 22, delete "**harmful to minors**" and insert in lieu thereof "**not educationally suitable for students**"; and

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On page 3, line 27, delete "harmful to minors" and insert in lieu thereof "not educationally suitable for students"; and

On page 4, line 1, delete "(4)" and insert in lieu thereof "(7)"; and

On page 4, delete lines 5 through 7 in their entirety and insert in lieu thereof the following:

"(8) Willful violation of this section by knowingly providing students with access to material, or a performance, event, or program, that has been deemed or should reasonably be known to be not educationally suitable for students by an employee of a public school shall be a basis for disciplinary action.

(9) No later than July 1, 2023, each local board of education shall adopt policy and procedures to ensure that no matter, program or event that is lacking educational value, or is educationally unsuitable in any way for minors is introduced into the school library, or made accessible to students on any property owned, operated, or leased by the board of education.

(10) No later than May 1, 2023, the Department of Education shall promulgate a model policy for a complaint resolution process that meets the requirements of subsections (5), (6), and (7) of this section and a model policy for excluding matter from the school library that meets the requirements of subsection (6) of this section. No local board of education shall be required to adopt these model policies so long as all schools under its control nevertheless comply with sections (2) to (9) of this section."; and

On page 4, line 9, delete "harmful to minors" and insert in lieu thereof "not educationally suitable for students".