
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2324 Session of
2000

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ARMSTRONG, READSHAW, SOLOBAY, GEORGE, ROHRER, BUNT, SEYFERT,
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PLATTS, BROWNE, FLICK, BAKER, TRELLO, STRITTMATTER AND
SCHULER, FEBRUARY 28, 2000

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 28, 2000

AN ACT

1 Providing for protection of children from obscene material,
2 child pornography and other unsuitable material on the
3 Internet in public schools and public libraries.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Child
8 Internet Protection Act.

9 Section 2. Declaration of policy.

10 The General Assembly finds and declares as follows:

11 (1) The Commonwealth has a compelling interest and duty
12 to protect children from exposure to obscenity, child
13 pornography and other material harmful to minors.

14 (2) The Commonwealth has a compelling interest in
15 preventing any user from accessing obscene material and child

1 pornography within a public school or public library setting.

2 (3) There is a need to balance the goal of providing
3 free access to educationally suitable information sources on
4 the Internet against the compelling need and duty to protect
5 children from contact with sexual predators and from access
6 to obscene material, child pornography and material harmful
7 to children.

8 (4) The Commonwealth has a compelling interest and duty
9 to protect children against the adverse secondary effects of
10 permitting Internet access to obscenity, child pornography
11 and material harmful to minors available within a public
12 library setting since the availability of such material will
13 attract pedophiles and other sexually disturbed persons who
14 present a danger to children.

15 (5) Pornography in a public library or school setting
16 can create a hostile environment constituting sexual
17 harassment.

18 (6) The Commonwealth has a compelling interest and duty
19 to take reasonable steps to prevent the creation of a hostile
20 environment in public schools and libraries and to prevent
21 the sexual harassment of students, library patrons, library
22 staff and other persons.

23 Section 3. Definitions.

24 The following words and phrases when used in this act shall
25 have the meanings given to them in this section unless the
26 context clearly indicates otherwise:

27 "Acceptable-use policy." A policy for Internet usage that
28 meets the requirements of this act which is acceptable to and
29 adopted by a school board or a governing body of a public
30 library.

1 "Aggrieved parent or guardian." The parent or guardian of:

2 (1) A student who attends a public school within a
3 school district that is the subject of an enforcement action.

4 (2) A child under 17 years of age who has library
5 privileges at a public library that is the subject of an
6 enforcement action.

7 "Child pornography." As described in 18 Pa.C.S. § 6312
8 (relating to sexual abuse of children).

9 "Court of common pleas." The court of common pleas of the
10 county in which a school district or public library that is the
11 subject of the enforcement action is situated.

12 "Department." The Department of Education of the
13 Commonwealth.

14 "District attorney." The district attorney of the county in
15 which a school district or public library that is the subject of
16 the enforcement action is situated.

17 "Harmful to minors." As defined in 18 Pa.C.S. § 5903
18 (relating to obscene and other sexual materials and
19 performances).

20 "Obscene." As defined for purposes of "obscene materials" in
21 18 Pa.C.S. § 5903 (relating to obscene and other sexual
22 materials and performances).

23 "Public library." A library, other than a college,
24 university or public school district library, that is
25 established or maintained by the Commonwealth, a political
26 subdivision or an authority or which receives State aid pursuant
27 to Article III of the act of June 14, 1961 (P.L.324, No.188),
28 known as The Library Code.

29 "School board." The board of directors of a school district.

30 "Secretary." The Secretary of Education of the Commonwealth.

1 Section 4. School district Internet policies.

2 (a) Acceptable-use policy.--Within 180 days after the
3 effective date of this act, each school board shall establish an
4 acceptable-use policy for the international network of computer
5 systems commonly known as the Internet. At a minimum, the policy
6 shall contain provisions which are reasonably designed to:

7 (1) Prevent students of the school district or any other
8 person from using any computer equipment and communications
9 services owned or leased by the school district for sending,
10 receiving, viewing or downloading material, the character of
11 which is such that it is reasonably believed to be obscene or
12 child pornography or harmful to minors and which prohibit the
13 use of such equipment and services for those purposes.

14 (2) Establish appropriate measures to be taken against
15 students and other persons who willfully violate the school
16 district's acceptable-use policy.

17 (3) Provide for expedited review and resolution of a
18 claim that the policy is denying a student or other person
19 access to material that is not within the prohibition of the
20 acceptable-use policy.

21 (b) Implementation and enforcement.--The school board shall
22 take such steps as it deems appropriate to implement and enforce
23 the school district policy, which shall include, but need not be
24 limited to:

25 (1) use of software programs reasonably designed to
26 block access to material, the character of which is
27 reasonably believed to be obscene, child pornography or
28 harmful to minors; or

29 (2) selection of on-line servers that block access to
30 material, the character of which is reasonably believed to be

1 obscene, child pornography or harmful to minors.

2 (c) Adoption of policy.--The school board may adopt a school
3 district policy that seeks to prevent student access to Internet
4 material which is pervasively indecent and vulgar or which is
5 not reasonably related to legitimate pedagogical concerns, as
6 specifically defined by the policy.

7 (d) Copy of policy for parents or guardians.--The school
8 district shall annually provide the parent or guardian of each
9 student with a copy of the acceptable-use policy it has adopted
10 under this section.

11 Section 5. Public library Internet policies.

12 (a) Acceptable-use policy.--Within 180 days after the
13 effective date of this act, the governing body of every public
14 library shall establish an acceptable-use policy for the
15 international network of computer systems commonly known as the
16 Internet. The policy shall contain provisions which are
17 reasonably designed to:

18 (1) Prevent any person from using the library's computer
19 equipment and communications services for sending, receiving,
20 viewing or downloading material, the character of which is
21 reasonably believed to be obscene, child pornography or
22 harmful to minors.

23 (2) Establish appropriate measures to be taken against
24 persons who willfully violate the policy.

25 (b) Implementation and enforcement of policy.--The governing
26 body of the public library shall take such steps as it deems
27 appropriate to implement and enforce the requirements of
28 subsection (a). These steps shall include, but need not be
29 limited to, the following:

30 (1) the use of software programs designed to block

1 access by any person to material, the character of which is
2 reasonably believed to be obscene, child pornography or
3 harmful to minors; or

4 (2) the selection of on-line servers that block access
5 by any person to material, the character of which is
6 reasonably believed to be obscene, child pornography or
7 harmful to minors.

8 (c) Expedited review procedure.--Each public library shall
9 establish an expedited procedure for the review and resolution,
10 by personnel designated for this purpose, of any claim that a
11 software program or other policy of the public library is
12 denying a user access to material that is not within the
13 prohibition of this section for that user.

14 (d) Appeal.--A person aggrieved by an adverse decision of a
15 public library regarding access to Internet material or by
16 failure of a public library to make a decision within two
17 business days after making a request for Internet access may
18 file an appeal with the court of common pleas. The court shall
19 hold a de novo hearing within three business days after the
20 appeal is filed and shall issue a final decree within 24 hours
21 after the close of the hearing. The public library shall have
22 the burden of proof in the judicial proceeding.

23 Section 6. Powers and duties of Attorney General and
24 department.

25 (a) Review of software programs.--The secretary, in
26 consultation with the Attorney General, shall review the
27 capacity of software programs and on-line servers to meet the
28 requirements of sections 4(b) and 5(b). Within 90 days after the
29 effective date of this act and at least annually thereafter, the
30 secretary shall send to each school district and public library

1 and publish in the Pennsylvania Bulletin a list of software
2 programs and on-line servers which, in the secretary's
3 determination, have the capacity to meet the requirements of
4 sections 4(b) and 5(b).

5 (b) Assistance to public libraries and school districts.--
6 The Attorney General and the secretary shall consult with and
7 assist any public library or school district that requests such
8 assistance in the development and implementation of an
9 acceptable-use policy under this act.

10 Section 7. Reports.

11 (a) Copy of policy to be filed.--Within 185 days after the
12 effective date of this act, the superintendent of each school
13 district and the chief administrative officer of each public
14 library shall file with the secretary a copy of the acceptable-
15 use policy of the school district and public library which have
16 been adopted under this act. Each revision to the acceptable-use
17 policy shall be transmitted to the secretary in accordance with
18 section 8.

19 (b) Identification of software program and on-line
20 servers.--Each acceptable-use policy filed with the department
21 shall identify any software program or on-line server that is
22 being utilized to block access to material in accordance with
23 sections 4(b) and 5(b).

24 (c) Report to General Assembly.--Within 90 days after the
25 deadline for initial filing under subsection (a), and in
26 December of each subsequent year, the secretary shall submit a
27 report to the chairman and minority chairman of the Education
28 Committee of the Senate and the chairman and minority chairman
29 of the Education Committee of the House of Representatives which
30 summarizes the acceptable-use policies and any revisions thereof

1 filed with the secretary under this act.

2 Section 8. Enforcement.

3 (a) Review of acceptable-use policy.--The secretary shall
4 review each acceptable-use policy filed under this act and each
5 revision thereof and shall approve each policy or revision that
6 is designed to achieve the requirements of section 4 in the case
7 of school districts or section 5 in the case of public libraries
8 and shall disapprove any policy or revision that is not
9 reasonably designed to achieve the requirements of this act.
10 Except as otherwise provided in subsection (b), a public library
11 or school district shall implement its acceptable-use policy
12 during the review period.

13 (b) Revision of policy.--No revision of an acceptable-use
14 policy, which has been approved by the secretary, shall be
15 implemented until such revision is approved by the secretary. If
16 the secretary fails to disapprove the revision within 60 days
17 after submission to the secretary, the public library or school
18 district may proceed with the implementation of the revision of
19 its acceptable-use policy.

20 (c) Withholding of funding.--The secretary shall withhold
21 State funding from any public library or school district that:

22 (1) fails to submit an acceptable-use policy within the
23 time prescribed in this act;

24 (2) submits an acceptable-use policy that is not
25 reasonably designed to achieve the requirements of section 4
26 in the case of school districts or section 5 in the case of
27 public libraries;

28 (3) is not enforcing or is substantially disregarding
29 its acceptable-use policy; or

30 (4) violates any other provision of this act.

1 (d) Notice of noncompliance.--If the secretary determines
2 that a public library or school district is not in compliance
3 with the requirements of this act, the secretary shall provide
4 the public library or school district with a written notice
5 explaining the nature of such noncompliance and shall afford the
6 school district or public library a 30-day period for correcting
7 any failure to comply with this act before withholding any funds
8 under this section. The secretary may extend the time for
9 submission of a revised acceptable-use policy for good cause.

10 (e) Appeal.--If the secretary disapproves an acceptable-use
11 policy or any revision thereof under this section or notifies
12 the public library or school district that it is subject to the
13 withholding of funding pursuant to subsection (c), the aggrieved
14 public library or school district may appeal the decision to the
15 Commonwealth Court.

16 (f) Court enforcement.--The secretary, the district attorney
17 or an aggrieved parent or guardian shall have standing to bring
18 an action in the court of common pleas seeking a court order
19 directing the school board or public library to enforce an
20 acceptable-use policy filed with the secretary. The court of
21 common pleas shall issue an appropriate order if it determines
22 that the school board or public library is not enforcing or is
23 substantially disregarding its acceptable-use policy.

24 Section 9. Disabling blocking technology for use by certain
25 persons.

26 (a) General rule.--Notwithstanding any other section of this
27 act to the contrary, an administrator, supervisor or other
28 personnel designated for this purpose may disable the software
29 program or on-line server that is being utilized to block access
30 to material in accordance with sections 4(b) and 5(b) during use

1 by any person other than a student, in the case of a school
2 district, or a child under 17 years of age, in the case of a
3 public library, to enable unfiltered access for the purpose of
4 bona fide research or other lawful purpose.

5 (b) Construction.--Nothing in this section shall be
6 construed to permit any person to have access to material the
7 character of which is reasonably believed to be obscene or child
8 pornography.

9 Section 10. Severability.

10 The provisions of this act are severable. If any provision of
11 this act or its application to any person or circumstance is
12 held invalid, the invalidity shall not affect other provisions
13 or applications of this act which can be given effect without
14 the invalid provision or application.

15 Section 11. Repeal.

16 All acts and parts of acts are repealed insofar as they are
17 inconsistent with this act.

18 Section 12. Effective date.

19 This act shall take effect immediately.