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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2324 Session of  
2000

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INTRODUCED BY EGOLF, TRUE, THOMAS, FLEAGLE, HUTCHINSON, FARGO,  
ARMSTRONG, READSHAW, SOLOBAY, GEORGE, ROHRER, BUNT, SEYFERT,  
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BIRMELIN, BARRAR, LYNCH, CLARK, CLYMER, ZUG, GEIST, MARSICO,  
PLATTS, BROWNE, FLICK, BAKER, TRELLO, STRITTMATTER AND  
SCHULER, FEBRUARY 28, 2000

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REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 28, 2000

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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

obscene, child pornography or harmful to minors.

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

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

#### Section 5. Public library Internet policies.

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

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

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

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

(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.