
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2262 Session of
2003

INTRODUCED BY EGOLF, ARMSTRONG, BALDWIN, BARRAR, BASTIAN, BEBKO-
JONES, BENNINGHOFF, BIRMELIN, BOYD, BROWNE, CLYMER, COLEMAN,
CRAHALLA, CREIGHTON, DALLY, DeLUCA, DENLINGER, FLICK,
FORCIER, GEIST, GEORGE, GOOD, GOODMAN, HARHAI, HARRIS,
HENNESSEY, HERMAN, HERSHEY, HESS, HICKERNELL, HORSEY,
HUTCHINSON, KELLER, KENNEY, KIRKLAND, KOTIK, LAUGHLIN,
LEDERER, LYNCH, MAITLAND, MARSICO, MELIO, METCALFE, MICOZZIE,
PAYNE, PICKETT, REICHLLEY, ROHRER, SATHER, SCAVELLO, SCHRODER,
STERN, E. Z. TAYLOR, THOMAS, TIGUE, TRUE, WATSON, WILT,
YOUNGBLOOD, CORRIGAN, KILLION, WASHINGTON AND ADOLPH,
DECEMBER 16, 2003

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED,
NOVEMBER 9, 2004

AN ACT

1 Providing for protection of children from obscene material,
2 child pornography and other material that is harmful to
3 minors on the Internet in public schools and public
4 libraries; and providing for the duties of the Secretary of
5 Education.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Child
10 Internet Protection Act.

11 Section 2. Declaration of policy.

12 The General Assembly finds and declares as follows:

13 (1) The Commonwealth has a compelling interest and duty
14 to protect children from exposure to obscenity, child

1 pornography and other material that is harmful to minors.

2 (2) The Commonwealth has a compelling interest in
3 preventing any user from accessing obscene material and child
4 pornography within a public school or public library setting.

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

11 Section 3. Definitions.

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

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

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

21 "Department." The Department of Education of the
22 Commonwealth.

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

26 "Internet." ~~the International~~ THE INTERNATIONAL network of ←
27 computer systems.

28 "Obscene." As defined for purposes of "obscene materials" in
29 18 Pa.C.S. § 5903 (relating to obscene and other sexual
30 materials and performances).

1 "Public library." A county or local library that receives
2 State aid pursuant to Article III of the act of June 14, 1961
3 (P.L.324, No.188), known as The Library Code.

4 "School board." The board of directors of a school entity.

5 "School entity." A public school district, charter school,
6 intermediate unit or area vocational-technical school.

7 "Secretary." The Secretary of Education of the Commonwealth.
8 Section 4. School entity Internet policies.

9 (a) Acceptable-use policy.--Within 180 days after the
10 effective date of this act, each school board shall adopt an
11 acceptable-use policy for the Internet. At a minimum, the policy
12 shall contain provisions which are reasonably designed to:

13 (1) Prevent students and employees of the school entity
14 from using any computer equipment and communications services
15 owned or leased by the school ~~district~~ ENTITY for sending, <—
16 receiving, viewing or downloading visual depictions of
17 obscenity, child pornography or material that is harmful to
18 minors. ~~and which prohibit the use of such equipment and~~ <—
19 ~~services for those purposes.~~

20 (2) Establish appropriate measures to be taken against
21 students and school employees who willfully violate the
22 school entity's acceptable-use policy.

23 (3) Provide for expedited review and resolution of a
24 claim that the policy is denying a student or school employee
25 access to material that is not within the prohibition of the
26 acceptable-use policy.

27 (b) Implementation and enforcement.--The school board shall
28 take such steps as it deems appropriate to implement and enforce
29 the school entity's policy, which shall include, but need not be
30 limited to:

1 (1) use of software programs reasonably designed to
2 block access to visual depictions of obscenity, child
3 pornography or material that is harmful to minors; or

4 (2) selection of online servers that block access to
5 visual depictions of obscenity, child pornography or material
6 that is harmful to minors.

7 (c) Copy of policy for parents or guardians.--A school
8 entity shall provide, upon written request of a parent or
9 guardian, a copy of the acceptable-use policy it has adopted
10 under this act.

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~~ EACH ←
14 public library shall ~~establish~~ ADOPT an acceptable-use policy ←
15 for the Internet. ~~The~~ AT A MINIMUM, THE policy shall contain ←
16 provisions which are reasonably designed to:

17 (1) Prevent library patrons, including those patrons
18 under 18 years of age and library employees from using the
19 library's computer equipment and communications services for
20 sending, receiving, viewing or downloading visual depictions
21 of obscenity, child pornography or material that is harmful
22 to minors.

23 (2) Establish appropriate measures to be taken against
24 library patrons and employees who willfully violate the
25 policy.

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

1 (1) the use of software programs designed to block
2 access by library patrons and employees to visual depictions
3 of obscenity, child pornography or material that is harmful
4 to minors; or

5 (2) the selection of ~~on-line~~ ONLINE servers that block <—
6 access by library patrons and employees to visual depictions
7 of obscenity, child pornography or material that is harmful
8 to minors.

9 (c) Immunity.--A public library shall not be subject to
10 civil liability for damages to any person as a result of the
11 failure of any approved software program or approved ~~on-line~~ <—
12 ONLINE server to block access to visual depictions of obscenity, <—
13 child pornography or material that is harmful to minors. Nothing
14 in this section shall be deemed to abrogate or lessen any
15 immunity or other protection against liability accorded to
16 public libraries under existing law or court decision.

17 Section 6. Consultation on acceptable-use policies.

18 The Attorney General and the secretary shall consult with and
19 assist any public library or school entity that requests such
20 assistance in the development and implementation of an
21 acceptable-use policy under this act.

22 Section 7. Reports.

23 (a) Copy of policy to be filed.--Within 200 days after the
24 effective date of this act, each school entity and public
25 library shall file with the secretary a copy of the acceptable-
26 use policy of the school entity and public library which have
27 been adopted under this act. Each revision to the acceptable-use
28 policy shall be transmitted to the secretary in accordance with
29 section 8.

30 (b) Identification of software program and online servers.--

1 Each acceptable-use policy filed with the department shall
2 identify any software program or ~~on-line~~ ONLINE server that is ←
3 being utilized to block access to material in accordance with
4 sections 4(b) and 5(b).

5 Section 8. Enforcement of acceptable-use policies.

6 (a) Review of acceptable-use policies.--The secretary shall
7 review each acceptable-use policy filed by a public library and
8 school entity under this act and each revision thereof. If the
9 secretary determines after review that a policy or revision is
10 not designed to achieve the requirements of section 4 or 5, the
11 secretary shall provide written notice to the school entity or
12 public library explaining the nature of such noncompliance and
13 shall afford the school entity or public library a 30-day period
14 for correcting any failure to comply with this act. The
15 secretary may provide a reasonable extension of time for
16 submission of a revised acceptable-use policy, on a showing of
17 good cause.

18 (b) Revision of policies.--No revision of an acceptable-use
19 policy which has been approved by the secretary under subsection
20 (a), shall be implemented until such revision is approved by the
21 secretary. If the secretary fails to disapprove the revision
22 within 60 days after submission to the secretary, the school
23 entity or public library may proceed with the implementation of
24 the revision of its acceptable-use policy.

25 (c) Withholding of funding from school entities and public
26 libraries.--The secretary shall withhold a portion of State
27 funding to a school entity or public library if the school
28 entity or public library:

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

1 (2) submits an acceptable-use policy that is not
2 reasonably designed to achieve the requirements of section 4
3 OR 5; or ←

4 (3) is not enforcing or is substantially disregarding
5 its acceptable-use policy.

6 (d) Appeal.--If the secretary disapproves an acceptable-use
7 policy or any revision thereof under this section or notifies
8 the school entity or public library that it is subject to the
9 withholding of funding pursuant to subsection (c), the aggrieved
10 school entity or public library may appeal the decision to the
11 Commonwealth Court.

12 Section 9. Duties of the secretary.

13 (a) Procedure.--

14 (1) The secretary shall be responsible for conducting
15 investigations and making written determinations as to
16 whether or not a public library or school entity has violated
17 the requirements of this act.

18 (2) If the secretary determines that a school entity or
19 public library is in violation, the secretary shall direct
20 the school entity or public library to acknowledge and
21 correct the violation within a 30-day period and to develop a
22 corrective plan for preventing future recurrences.

23 (b) Construction.--Nothing in this section shall limit the
24 authority of the secretary to withhold funds pursuant to section
25 8(c) in an appropriate case.

26 Section 10. Disabling blocking technology for use by certain
27 persons.

28 (a) General rule.--Notwithstanding any other section of this
29 act to the contrary, an administrator, supervisor or their
30 designee may disable the software program or online server for

1 an adult or a minor who provides written consent from a parent
2 or guardian, to enable access for bona fide research or other
3 lawful purpose.

4 (b) Construction.--Nothing in this section shall be
5 construed to permit any person to have access to material the
6 character of which is illegal under Federal or State law.

7 Section 11. Severability.

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

13 Section 12. Applicability.

14 School entities and public libraries fulfilling the
15 requirements of the Children's Internet Protection Act (Public
16 Law 106-554, 114 Stat. 2763A-335) are not required to fulfill
17 the requirements of this act.

18 Section 13. Repeal.

19 All acts and parts of acts are repealed insofar as they are
20 inconsistent with this act.

21 Section 14. Effective date.

22 This act shall take effect immediately.