
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,
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FORCIER, GEIST, GEORGE, GOOD, GOODMAN, HARHAI, HARRIS,
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YOUNGBLOOD, CORRIGAN, KILLION, WASHINGTON AND ADOLPH,
DECEMBER 16, 2003

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, NOVEMBER 18, 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 (4) IT IS NOT THE INTENT OF THIS ACT TO CREATE OR IMPOSE ←
12 LIABILITY ON SOFTWARE PROGRAM OR INTERNET SERVICE PROVIDERS
13 THAT MAKE AVAILABLE INFORMATION CREATED BY THIRD PARTIES, BY
14 TREATING THE SOFTWARE OR SERVICE PROVIDER AS THE PUBLISHER OR
15 SPEAKER OF SUCH INFORMATION. NOR SHOULD THIS ACT BE CONSTRUED
16 AS IMPOSING ANY LIABILITY ON SOFTWARE PROGRAM OR INTERNET
17 SERVICE PROVIDERS FOR CREATING AND MAKING AVAILABLE TO USERS,
18 MONITORING AND SCREENING FUNCTIONS THAT SERVE TO RESTRICT
19 ACCESS TO OFFENSIVE MATERIAL. INDEED, IT IS THE INTENT OF THE
20 GENERAL ASSEMBLY TO MINIMIZE SUCH LIABILITY ON SOFTWARE
21 PROGRAM AND INTERNET SERVICE PROVIDERS, IN ORDER TO ENCOURAGE
22 THE DEVELOPMENT AND DEPLOYMENT OF BLOCKING AND SCREENING
23 TECHNOLOGIES, IN ORDER TO PROMOTE THE WIDEST POSSIBLE
24 DISSEMINATION OF SUCH TECHNOLOGIES TO LIBRARIES, SCHOOLS AND
25 END USERS.

26 Section 3. Definitions.

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

30 "Acceptable-use policy." A policy for Internet usage that

1 meets the requirements of this act which is acceptable to and
2 adopted by a school board or a governing body of a public
3 library.

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

6 "Department." The Department of Education of the
7 Commonwealth.

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

11 "Internet." ~~the International~~ THE INTERNATIONAL network of
12 computer systems. <—

13 "Obscene." As defined for purposes of "obscene materials" in
14 18 Pa.C.S. § 5903 (relating to obscene and other sexual
15 materials and performances).

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

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

20 "School entity." A public school district, charter school,
21 CYBER CHARTER SCHOOL, intermediate unit or area vocational- <—
22 technical school.

23 "Secretary." The Secretary of Education of the Commonwealth.
24 Section 4. School entity Internet policies.

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

29 (1) Prevent students and employees of the school entity
30 from using any computer equipment and communications services

1 owned or leased by the school ~~district~~ ENTITY for sending, <—
2 receiving, viewing or downloading visual depictions of
3 obscenity, child pornography or material that is harmful to
4 minors. ~~and which prohibit the use of such equipment and <—~~
5 ~~services for those purposes.~~

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

9 (3) Provide for expedited review and resolution of a
10 claim that the policy is denying a student or school employee
11 access to material that is not within the prohibition of the
12 acceptable-use policy.

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

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

20 (2) selection of online servers that block access to
21 visual depictions of obscenity, child pornography or material
22 that is harmful to minors.

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

27 Section 5. Public library Internet policies.

28 (a) Acceptable-use policy.--Within 180 days after the
29 effective date of this act, the governing body of ~~every~~ EACH <—
30 public library shall ~~establish~~ ADOPT an acceptable-use policy <—

1 for the Internet. ~~The~~ AT A MINIMUM, THE policy shall contain <—
2 provisions which are reasonably designed to:

3 (1) Prevent library patrons, including those patrons
4 under 18 years of age and library employees from using the
5 library's computer equipment and communications services for
6 sending, receiving, viewing or downloading visual depictions
7 of obscenity, child pornography or material that is harmful
8 to minors.

9 (2) Establish appropriate measures to be taken against
10 library patrons and employees who willfully violate the
11 policy.

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

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

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

25 (c) Immunity.--A public library shall not be subject to
26 civil liability for damages to any person as a result of the
27 failure of any approved software program or approved ~~on-line~~ <—
28 ONLINE server to block access to visual depictions of obscenity, <—
29 child pornography or material that is harmful to minors. Nothing
30 in this section shall be deemed to abrogate or lessen any

1 immunity or other protection against liability accorded to
2 public libraries under existing law or court decision.

3 Section 6. Consultation on acceptable-use policies.

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

8 Section 7. Reports.

9 (a) Copy of policy to be filed.--Within 200 days after the
10 effective date of this act, each school entity and public
11 library shall file with the secretary a copy of the acceptable-
12 use policy of the school entity and public library which have
13 been adopted under this act. Each revision to the acceptable-use
14 policy shall be transmitted to the secretary in accordance with
15 section 8.

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

21 Section 8. Enforcement of acceptable-use policies.

22 (a) Review of acceptable-use policies.--The secretary shall
23 review each acceptable-use policy filed by a public library and
24 school entity under this act and each revision thereof. If the
25 secretary determines after review that a policy or revision is
26 not designed to achieve the requirements of section 4 or 5, the
27 secretary shall provide written notice to the school entity or
28 public library explaining the nature of such noncompliance and
29 shall afford the school entity or public library a 30-day period
30 for correcting any failure to comply with this act. The

1 secretary may provide a reasonable extension of time for
2 submission of a revised acceptable-use policy, on a showing of
3 good cause.

4 (b) Revision of policies.--No revision of an acceptable-use
5 policy which has been approved by the secretary under subsection
6 (a), shall be implemented until such revision is approved by the
7 secretary. If the secretary fails to disapprove the revision
8 within 60 days after submission to the secretary, the school
9 entity or public library may proceed with the implementation of
10 the revision of its acceptable-use policy.

11 (c) Withholding of funding from school entities and public
12 libraries.--The secretary shall withhold a portion of State
13 funding to a school entity or public library if the school
14 entity or public library:

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

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

20 (3) is not enforcing or is substantially disregarding
21 its acceptable-use policy.

22 (d) Appeal.--If the secretary disapproves an acceptable-use
23 policy or any revision thereof under this section or notifies
24 the school entity or public library that it is subject to the
25 withholding of funding pursuant to subsection (c), the aggrieved
26 school entity or public library may appeal the decision to the
27 Commonwealth Court.

28 Section 9. Duties of the secretary.

29 (a) Procedure.--

30 (1) The secretary shall be responsible for conducting

1 investigations and making written determinations as to
2 whether or not a public library or school entity has violated
3 the requirements of this act.

4 (2) If the secretary determines that a school entity or
5 public library is in violation, the secretary shall direct
6 the school entity or public library to acknowledge and
7 correct the violation within a 30-day period and to develop a
8 corrective plan for preventing future recurrences.

9 (b) Construction.--Nothing in this section shall limit the
10 authority of the secretary to withhold funds pursuant to section
11 8(c) in an appropriate case.

12 Section 10. Disabling blocking technology for use by certain
13 persons.

14 (a) General rule.--Notwithstanding any other section of this
15 act to the contrary, an administrator, supervisor or their
16 designee may disable the software program or online server for
17 an adult or a minor who provides written consent from a parent
18 or guardian, to enable access for bona fide research or other
19 lawful purpose.

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

23 Section 11. Severability.

24 The provisions of this act are severable. If any provision of
25 this act or its application to any person or circumstance is
26 held invalid, the invalidity shall not affect other provisions
27 or applications of this act which can be given effect without
28 the invalid provision or application.

29 Section 12. Applicability.

30 School entities and public libraries fulfilling the

1 requirements of the Children's Internet Protection Act (Public
2 Law 106-554, 114 Stat. 2763A-335) are not required to fulfill
3 the requirements of this act.

4 Section 13. Repeal.

5 All acts and parts of acts are repealed insofar as they are
6 inconsistent with this act.

7 Section 14. Effective date.

8 This act shall take effect immediately.