

By the Committee on Governmental Oversight and Productivity;  
and Senator Wise

302-1983-04

1                                   A bill to be entitled  
2           An act relating to Internet screening in public  
3           libraries; defining terms; requiring public  
4           libraries to provide technology that protects  
5           against Internet access to specified proscribed  
6           visual depictions; allowing adults to request  
7           disablement of the technology for specified  
8           purposes; providing for the assessment of a  
9           fine and attorney's fees and costs in  
10          connection with a violation by a public  
11          library; directing the Division of Library and  
12          Information Services within the Department of  
13          State to adopt rules requiring a written  
14          attestation of compliance as a condition of  
15          state funding; providing that no cause of  
16          action arises for a violation by a public  
17          library except as provided; providing a finding  
18          of important state interest; providing an  
19          effective date.

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21 Be It Enacted by the Legislature of the State of Florida:

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23           Section 1. Internet screening in public libraries.--

24           (1) As used in this section, the term:

25           (a) "Administrative unit" means the entity designated  
26 by a local government body as responsible for the  
27 administration of all public library locations established or  
28 maintained by that local government body.

29           (b) "Child pornography" has the same meaning as in  
30 section 847.001, Florida Statutes.

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1           (c) "Harmful to minors" means any picture, image,  
2 graphic image file, or other visual depiction that:

3           1. Taken as a whole and with respect to minors,  
4 appeals to a prurient interest in nudity, sex, or excretion;

5           2. Depicts, describes, or represents, in a patently  
6 offensive way with respect to what is suitable for minors, an  
7 actual or simulated sexual act or sexual contact, an actual or  
8 simulated normal or perverted sexual act, or a lewd exhibition  
9 of the genitals; and

10           3. Taken as a whole, lacks serious literary, artistic,  
11 political, or scientific value as to minors.

12           (d) "Minor" means an individual who is younger than 18  
13 years of age.

14           (e) "Obscene" has the same meaning as in section  
15 847.001, Florida Statutes.

16           (f) "Public computer" means a computer that is made  
17 available to the public and that has Internet access.

18           (g) "Public library" means any library established or  
19 maintained by one or more of the following local government  
20 bodies in this state: county; municipality; consolidated  
21 city-county government; special district; or special tax  
22 district.

23           (h) "Technology protection measure" means software or  
24 equivalent technology that blocks or filters Internet access  
25 to the visual depictions that are proscribed under subsection  
26 (2).

27           (2) Each public library shall enforce an Internet  
28 safety policy that provides for the:

29           (a) Installation and operation of a technology  
30 protection measure on all public computers in the library  
31 which protects against access through such computers by adults

1 to visual depictions that are obscene or child pornography and  
2 by minors to visual depictions that are obscene, child  
3 pornography, or harmful to minors; and

4 (b) Disablement of the technology protection measure  
5 by an employee of the public library upon an adult's request  
6 to use the computer for bona fide research or other lawful  
7 purpose.

8 (3)(a) In the event a public library fails to comply  
9 with subsection (2), the Attorney General or a citizen of this  
10 state is authorized to seek enforcement as provided in this  
11 subsection. The Attorney General or citizen shall first mail  
12 to the applicable administrative unit a notice of intended  
13 civil action for enforcement, which shall identify each public  
14 library location implicated and shall specify the facts and  
15 circumstances alleged to constitute a violation of subsection  
16 (2). Within 15 days after the receipt of such notice, the  
17 administrative unit shall mail to the party who provided the  
18 notice a written response indicating whether each public  
19 library location identified in the notice has complied with or  
20 has initiated reasonable efforts toward compliance with the  
21 requirements of subsection (2). If the Attorney General or  
22 citizen does not receive such written response within 25 days  
23 after receipt of the notice by the administrative unit, or if  
24 after receiving such written response, the Attorney General or  
25 citizen is not satisfied that compliance has been rendered or  
26 that reasonable efforts toward compliance have been initiated,  
27 the Attorney General or citizen may bring a civil cause of  
28 action in the circuit court of the county in which the  
29 administrative unit is located to enforce subsection (2). In  
30 connection with such enforcement, the court shall impose a  
31 fine upon the administrative unit in the amount of \$100 per

1 day per public library location found to have violated  
2 subsection (2). Accrual of the fine shall begin on the date  
3 that the administrative unit received the notice of intended  
4 civil action for enforcement. In any such action brought by a  
5 citizen, if a court finds a violation of subsection (2), the  
6 court shall award reasonable attorney's fees and costs to be  
7 paid to the prevailing citizen by the administrative unit. The  
8 clerk of the circuit court shall act as the depository for all  
9 moneys collected pursuant to this subsection. The clerk may  
10 retain a service charge of \$1 for each payment received under  
11 this subsection. On a monthly basis, the clerk shall transfer  
12 the moneys collected pursuant to this subsection to the  
13 Department of Revenue for deposit in the Records Management  
14 Trust Fund within the Department of State.

15 (b) All mailings required by this subsection shall be  
16 certified with return receipt requested.

17 (4) The Division of Library and Information Services  
18 within the Department of State shall adopt rules pursuant to  
19 sections 120.536(1) and 120.54, Florida Statutes, which  
20 require the head of each administrative unit to annually  
21 attest in writing, under penalty of perjury, that all public  
22 library locations within the administrative unit are in  
23 compliance with subsection (2), as a condition of the receipt  
24 of any state funds distributed under chapter 257, Florida  
25 Statutes.

26 (5) No cause of action, except that authorized in  
27 subsection (3), shall arise in favor of any person due to a  
28 public library's failure to comply with subsection (2).

29 Section 2. In accordance with Section 18, Article VII  
30 of the State Constitution, the Legislature finds that the  
31 installation and operation by public libraries of technology

1 protection measures that protect against access by adults to  
2 visual depictions that are obscene or child pornography and by  
3 minors to visual depictions that are obscene, child  
4 pornography, or harmful to minors fulfills an important state  
5 interest.

6 Section 3. This act shall take effect July 1, 2004.

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8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
9 COMMITTEE SUBSTITUTE FOR  
10 Senate Bill 1552

11 The committee substitute adds the following to the bill: (a)  
12 definitions of "administrative unit" and "public library;"  
13 (b) a requirement that libraries established by special  
14 districts implement an Internet safety policy; (c) two  
15 enforcement provisions, i.e., a civil cause of action with  
16 fines and attorney's fees and costs, and a state funding  
17 condition; and (d) an immunity provision clarifying that the  
18 only cause of action permitted is that specifically authorized  
19 by the bill. The committee substitute also conforms the bill  
20 to federal law by providing that an adult's request to disable  
21 a filter must be for bona fide research or other lawful  
22 purpose.  
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