

By the Committees on Criminal Justice; Governmental Oversight and Productivity; and Senators Wise and Campbell

307-2324-04

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; requiring a public library to post
9 notice of its Internet safety policy; providing
10 for the assessment of a fine and attorney's
11 fees and costs in connection with a violation
12 by a public library; directing the Division of
13 Library and Information Services within the
14 Department of State to adopt rules requiring a
15 written attestation of compliance as a
16 condition of state funding; providing that no
17 cause of action arises for a violation by a
18 public library except as provided; providing a
19 finding of important state interest; providing
20 an effective date.

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

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24 Section 1. Internet screening in public libraries.--
25 (1) As used in this section, the term:
26 (a) "Administrative unit" means the entity designated
27 by a local government body as responsible for the
28 administration of all public library locations established or
29 maintained by that local government body.
30 (b) "Child pornography" has the same meaning as in
31 section 847.001, Florida Statutes.

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) "Reasonable efforts" means the public library, as
24 required by subsection (2), in its ordinary course of
25 business:

26 1. Is posting its Internet safety policy;

27 2. Is using a technology protection measure on all
28 public computers; and

29 3. Disables the technology protection measure upon an
30 adult's request to use the computer for bona fide research or
31 other lawful purpose.

1 (i) "Technology protection measure" means software or
2 equivalent technology that blocks or filters Internet access
3 to the visual depictions that are proscribed under subsection
4 (2).

5 (2)(a) Each public library shall enforce an Internet
6 safety policy that provides for:

7 1. Installation and operation of a technology
8 protection measure on all public computers in the public
9 library which protects against access through such computers
10 by adults to visual depictions that are obscene or child
11 pornography and by minors to visual depictions that are
12 obscene, child pornography, or harmful to minors; and

13 2. Disablement of the technology protection measure by
14 an employee of the public library upon an adult's request to
15 use the computer for bona fide research or other lawful
16 purpose.

17 (b) Each public library shall post a notice in a
18 conspicuous area of the public library which indicates that an
19 Internet safety policy has been adopted and informs the public
20 that the Internet safety policy is available for review at
21 each public library.

22 (3)(a) In the event a public library fails to make
23 reasonable efforts to comply with subsection (2), a resident
24 of this state is authorized to seek enforcement as provided in
25 this subsection. The resident shall first mail to the
26 applicable administrative unit a notice of intended civil
27 action for enforcement, which shall identify each public
28 library location implicated and shall specify the facts and
29 circumstances alleged to constitute a violation of subsection
30 (2). Within 30 days after the receipt of such notice, the
31 administrative unit shall mail to the resident who provided

1 the notice a written response specifying the efforts, if any,
2 each public library location identified in the notice is
3 making to comply with the requirements of subsection (2). All
4 mailings required by this paragraph shall be certified with
5 return receipt requested.

6 (b) If the resident does not receive the written
7 response required by paragraph (a) within 40 days after
8 receipt of the notice by the administrative unit, or if the
9 written response fails to indicate that the public library is
10 making reasonable efforts to comply with subsection (2), the
11 resident may bring a civil cause of action in the circuit
12 court of the county in which the administrative unit is
13 located to seek injunctive relief to enforce compliance with
14 subsection (2). In connection with such enforcement, the court
15 shall impose a civil fine upon the administrative unit in the
16 amount of \$100 per day per public library location that is
17 found to have not made reasonable efforts to comply with
18 subsection (2). Accrual of the fine shall be for the period
19 between the date that the administrative unit received notice
20 of the intended civil action for enforcement and the date upon
21 which the public library location begins making reasonable
22 efforts to comply with subsection (2).

23 (c) In any civil action brought pursuant to paragraph
24 (b), attorney's fees and costs awards shall be as follows:

25 1. An administrative unit that is fined pursuant to
26 paragraph (b) shall be ordered to pay reasonable attorney's
27 fees and costs to a prevailing resident; or

28 2. A resident shall be ordered to pay reasonable
29 attorney's fees and costs to an administrative unit if the
30 court finds that the filing of the action was in bad faith or
31 frivolous.

1 (d) The clerk of the circuit court shall act as the
2 depository for all moneys collected pursuant to this
3 subsection. The clerk may retain a service charge of \$1 for
4 each payment received under this subsection. On a monthly
5 basis, the clerk shall transfer the moneys collected pursuant
6 to this subsection to the Department of Revenue for deposit in
7 the Records Management Trust Fund within the Department of
8 State.

9 (4) The Division of Library and Information Services
10 within the Department of State shall adopt rules pursuant to
11 sections 120.536(1) and 120.54, Florida Statutes, which
12 require the head of each administrative unit to annually
13 attest in writing, under penalty of perjury, that all public
14 library locations within the administrative unit are in
15 compliance with subsection (2), as a condition of the receipt
16 of any state funds distributed under chapter 257, Florida
17 Statutes.

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

21 Section 2. In accordance with Section 18, Article VII
22 of the State Constitution, the Legislature finds that the
23 installation and operation by public libraries of technology
24 protection measures that protect against access by adults to
25 visual depictions that are obscene or child pornography and by
26 minors to visual depictions that are obscene, child
27 pornography, or harmful to minors fulfills an important state
28 interest.

29 Section 3. This act shall take effect October 1, 2004.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/SB 1552

- Requires each library to post notice that it has an Internet safety policy and that a copy is available for review.
- Removes authorization for the Attorney General to file a complaint against a library for failing to comply with Internet filtering requirements. Only citizens could file such a complaint.
- Clarifies that a library may only be fined when it has not made "reasonable efforts" to comply with the bill, and provides a definition of "reasonable efforts."
- Requires the court to award reasonable attorney's fees and costs to the library if the court finds that a citizen's civil action was frivolous or filed in bad faith.
- Changes the bill's effective date from July 1, 2004, to October 1, 2004.