

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

319-2400-04

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 that is open to
19 the public and that is established or maintained by one or
20 more of the following local government bodies in this state:
21 county; municipality; consolidated city-county government;
22 special district; or special tax district. The term "public
23 library" does not include a library that is open to the public
24 and that is established or maintained by a community college
25 or state university.

26 (h) "Reasonable efforts" means the public library, as
27 required by subsection (2), in its ordinary course of
28 business:

29 1. Is posting its Internet safety policy;

30 2. Is using a technology protection measure on all
31 public computers; and

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

4 (i) "Technology protection measure" means software or
5 equivalent technology that blocks or filters Internet access
6 to the visual depictions that are proscribed under subsection
7 (2).

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

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

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

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

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

1 circumstances alleged to constitute a violation of subsection
2 (2). Within 30 days after the receipt of such notice, the
3 administrative unit shall mail to the resident who provided
4 the notice a written response specifying the efforts, if any,
5 each public library location identified in the notice is
6 making to comply with the requirements of subsection (2). All
7 mailings required by this paragraph shall be certified with
8 return receipt requested.

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

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

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

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

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

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

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

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

3 Section 3. This act shall take effect October 1, 2004.

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5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 CS/CS/SB 1552

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9 The Committee Substitute for Committee Substitute for
10 Committee Substitute for Senate Bill 1552 excludes libraries
11 established or maintained by a community college or state
12 university from the definition of the term public library, and
13 thereby from application of the bill.

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