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A bill to be entitled
 An act relating to Internet screening in public libraries;
 creating s. 257.44, F.S.; defining terms; requiring public
 libraries to provide technology that protects against
 Internet access to specified proscribed visual depictions;
 allowing adults to request disablement of the technology
 for specified purposes; prohibiting a public library from
 maintaining a record of adults who request such
 disablement; requiring a public library to post notice of
 its Internet safety policy; providing for the assessment
 of a fine and attorney's fees and costs in connection with
 a violation by a public library; directing the Division of
 Library and Information Services within the Department of
 State to adopt rules requiring a written attestation of
 compliance as a condition of state funding; providing that
 no cause of action arises for a violation by a public
 library except as provided; providing a finding of
 important state interest; providing an effective date.

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

Section 1. Section 257.44, Florida Statutes, is created to
 read:

257.44 Internet screening in public libraries.--

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

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

29 local government body.

30 (b) "Child pornography" has the same meaning as in s.
 31 847.001.

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

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

36 2. Depicts, describes, or represents, in a patently
 37 offensive way with respect to what is suitable for minors, an
 38 actual or simulated sexual act or sexual contact, an actual or
 39 simulated normal or perverted sexual act, or a lewd exhibition
 40 of the genitals.

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

43 (d) "Minor" means an individual under 18 years of age.

44 (e) "Obscene" has the same meaning as in s. 847.001.

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

47 (g) "Public library" means any library that is open to the
 48 public and that is established or maintained by one or more of
 49 the following local government bodies in this state: county;
 50 municipality; consolidated city-county government; special
 51 district; or special tax district. The term does not include a
 52 library that is open to the public and that is established or
 53 maintained by a community college or state university.

54 (h) "Reasonable efforts" means the public library, in
 55 implementing the policy required by subsection (2), in its
 56 ordinary course of business:

57 1. Posts its Internet safety policy.

58 2. Uses a technology protection measure on all public
59 computers.

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

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

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

68 1. Installation and operation of a technology protection
69 measure on all public computers in the public library which
70 protects against access through such computers by adults to
71 visual depictions that are obscene or constitute child
72 pornography and by minors to visual depictions that are obscene,
73 constitute child pornography, or are harmful to minors.

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

77 (b) Each public library shall post a notice in a
78 conspicuous area of the public library which indicates that an
79 Internet safety policy has been adopted and informs the public
80 that the Internet safety policy is available for review at each
81 public library.

82 (c) A public library may not maintain a record of names of
83 adults who request that the technology protection measure be
84 disabled under this subsection.

85 (3) If a public library knowingly fails to make reasonable
86 efforts to comply with subsection (2), a resident of this state
87 may seek enforcement as provided in this subsection.

88 (a) Before instituting a civil action under paragraph (b),
89 the resident shall, within 45 days after a public library's
90 alleged failure to make such reasonable efforts, mail a written
91 notice of intended civil action for enforcement to the head of
92 the applicable administrative unit. The notice must identify
93 each public library location involved and specify the facts and
94 circumstances alleged to constitute a violation of subsection
95 (2). Within 45 days after the receipt of such notice, the head
96 of the administrative unit shall mail a written response to the
97 resident who provided the notice. The written response must
98 specify the efforts, if any, which each public library location
99 identified in the notice is making to comply with the
100 requirements of subsection (2). All mailings required by this
101 paragraph shall be certified with return receipt requested.

102 (b) If the resident does not receive the written response
103 required in paragraph (a) within 60 days after receipt of the
104 notice by the head of the administrative unit, or if the written
105 response fails to indicate that the public library is making
106 reasonable efforts to comply with subsection (2), the resident
107 may institute a civil action in the circuit court of the county
108 in which the administrative unit is located to seek injunctive
109 relief to enforce compliance with subsection (2).

110 (c) In connection with an enforcement action under
111 paragraph (b), the court shall:

112 1. Impose a civil fine upon the administrative unit in the

113 amount of \$100 per day per public library location that is found
 114 to have not made reasonable efforts to comply with subsection
 115 (2). Accrual of the fine shall be for the period between the
 116 date that the head of the administrative unit received the
 117 notice of intended civil action for enforcement and the date
 118 upon which the public library location begins making reasonable
 119 efforts to comply with subsection (2).

120 2. Order an administrative unit that is fined pursuant to
 121 subparagraph 1. to pay reasonable attorney's fees and costs to a
 122 prevailing resident. If the court finds that the filing of the
 123 action was in bad faith or frivolous, it shall order the
 124 resident who filed the action to pay reasonable attorney's fees
 125 and costs to the administrative unit.

126 (d) The clerk of the circuit court shall act as the
 127 depository for all civil fines paid pursuant to this subsection.
 128 The clerk may retain a service charge of \$1 for each payment and
 129 shall, on a monthly basis, transfer the moneys collected for
 130 such fines to the Department of Revenue for deposit in the
 131 Records Management Trust Fund within the Department of State.

132 (4) The Division of Library and Information Services
 133 within the Department of State shall adopt rules pursuant to ss.
 134 120.536(1) and 120.54 which require the head of each
 135 administrative unit to annually attest in writing, under penalty
 136 of perjury, that all public library locations for which the
 137 administrative unit is responsible are in compliance with
 138 subsection (2), as a condition of the receipt of any state funds
 139 distributed under chapter 257.

140 (5) No cause of action, except as authorized in subsection

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141 (3), shall arise in favor of any person due to a public
142 library's failure to comply with subsection (2).

143 Section 2. In accordance with s. 18, Art. VII of the State
144 Constitution, the Legislature finds that the installation and
145 operation by public libraries of technology protection measures
146 that protect against access by adults to visual depictions that
147 are obscene or constitute child pornography and by minors to
148 visual depictions that are obscene, constitute child
149 pornography, or are harmful to minors fulfills an important
150 state interest.

151 Section 3. This act shall take effect October 1, 2005.