

1                   A bill to be entitled  
2           An act relating to protection of minors online; defining  
3           the term "Internet access provider"; requiring providers  
4           to make available to customers in this state a product or  
5           service that enables the subscriber to regulate a minor's  
6           use of the service to access the Internet if certain  
7           conditions exist; providing requirements for such a  
8           product or service; requiring that interactive computer  
9           services take necessary steps to preserve records and  
10          evidence upon request of law enforcement agencies  
11          investigating specified crimes involving minor victims;  
12          requiring retention of such records and information for  
13          specified periods; providing search warrant compliance  
14          requirements for interactive computer services for  
15          investigations of specified offenses involving minor  
16          victims; providing for compliance without compulsory legal  
17          process in investigations of certain offenses involving  
18          minor victims involving immediate danger of death or  
19          serious bodily harm; providing for construction of  
20          provisions in a manner consistent with specified federal  
21          laws; creating s. 847.0141, F.S.; requiring interactive  
22          computer services to make certain reports when a violation  
23          of child pornography laws is evident to such service;  
24          amending ss. 800.04 and 847.0135, F.S.; providing that it  
25          is not a defense to charges of certain offenses involving  
26          minor victims that alleged victim was, in fact, a law  
27          enforcement officer posing as such minor victim; amending  
28          s. 943.043, F.S.; requiring the Department of Law

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29 Enforcement to make electronic mail and instant message  
30 name information collected from sexual predators and  
31 sexual offenders available to certain entities for  
32 specified purposes; providing that interactive computers  
33 services are not liable for specified actions based on a  
34 good faith belief that a user is listed in a sex offender  
35 registry; creating s. 948.33, F.S.; providing for lifetime  
36 supervision of Internet activities of specified sexual  
37 offenders whose offenses involved minor victims; providing  
38 for conduct of such supervision; specifying the  
39 requirements for such supervision; permitting certain  
40 offenders to have their Internet access limited or  
41 restricted; providing for petitions for release from such  
42 supervision; providing penalties; amending s. 1003.42,  
43 F.S.; providing a requirement for Internet safety  
44 instruction for students; providing related duties for the  
45 Department of Education; providing an effective date.

46  
47 Be It Enacted by the Legislature of the State of Florida:

48  
49 Section 1. Internet access provider; parental controls.--

50 (1) For purposes of this section, the term "Internet  
51 access provider" means an entity that provides consumers with  
52 public access to the Internet.

53 (2) If an Internet access provider knows or has reasonable  
54 cause to believe that a subscriber resides within this state,  
55 the provider shall make available to the subscriber a product or  
56 service that enables the subscriber to regulate a minor's use of

57 the service to access the Internet if such a product or service  
58 is reasonably and commercially available for the technology used  
59 by the subscriber to access the Internet. The product or service  
60 must, subject to such availability, enable the subscriber to do  
61 the following:

62 (a) Block access to specific websites or domains  
63 disapproved by the subscriber.

64 (b) Restrict access exclusively to specific websites or  
65 domains approved by the subscriber.

66 (c) Allow the subscriber to monitor a minor's use of the  
67 Internet by providing a report to the subscriber of the specific  
68 websites or domains that the minor has visited or has attempted  
69 to visit but could not access because the websites or domains  
70 were blocked or restricted by the subscriber.

71 (3) For the purposes of subsection (2), an Internet access  
72 provider shall be deemed to know that a subscriber resides  
73 within this state if the subscriber identifies this state as his  
74 or her place of residence at the time of subscription.

75 (4) If a product or service described in subsection (2) is  
76 reasonably and commercially available for the technology used by  
77 the subscriber to access the Internet, the provider of Internet  
78 access:

79 (a) Shall provide to the subscriber, at the time of  
80 subscription, information concerning the availability of the  
81 product or service described in subsection (2).

82 (b) May make the product or service described in  
83 subsection (2) available to the subscriber either directly or  
84 through a third-party vendor.

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85           Section 2. (1) (a) An interactive computer service, as  
86 defined in s. 668.602, Florida Statutes, shall, upon the request  
87 of any law enforcement agency investigating an offense involving  
88 a minor victim that is listed in s. 775.21(4)1., Florida  
89 Statutes, or s. 943.0435(1) (a)1., Florida Statutes, take all  
90 necessary steps to preserve records and all other evidence in  
91 its possession pending issuance of a court order or other legal  
92 process. The interactive computer service shall comply with the  
93 request as soon as possible following receipt.

94           (b) Records referred to in paragraph (a) shall be retained  
95 for a period of 90 days, which shall be extended for an  
96 additional 90-day period upon a renewed request by the law  
97 enforcement agency.

98           (2) (a) An interactive computer service shall, after  
99 receiving a search warrant as set forth in chapter 933 relating  
100 to an investigation of an offense involving a minor victim that  
101 is listed in s. 775.21(4)1., Florida Statutes, or s.  
102 943.0435(1) (a)1., Florida Statutes, provide information  
103 identified in 18 U.S.C. s. 2703(c) (2) that is in its possession;  
104 except that if the service demonstrates to the requesting law  
105 enforcement agency that, for bona fide technical reasons, it  
106 cannot comply with the order within 15 days of the request, it  
107 shall make every reasonable effort to comply with the request as  
108 soon as reasonably possible.

109           (b) In connection with any criminal investigation  
110 regarding a possible sex offense involving a minor that is  
111 listed in s. 775.21(4)1., Florida Statutes, or s.  
112 943.0435(1) (a)1., Florida Statutes, that involves immediate

113 danger of death or serious bodily harm, a law enforcement agency  
 114 in this state may issue a request, without compulsory legal  
 115 process or court order, to a designated recipient of the  
 116 interactive computer service to disclose, consistent with 18  
 117 U.S.C. s. 2702(c)(4), the information identified in paragraph  
 118 (a). The service shall communicate with the requesting agency to  
 119 discuss the nature of the request and to coordinate an  
 120 appropriate response immediately and without delay.

121 (3) Subsections (1) and (2) shall be interpreted in a  
 122 manner consistent with the requirements of federal law that  
 123 apply to providers of an electronic communications service,  
 124 including, but not limited to, 18 U.S.C. ss. 2701 et seq. and 42  
 125 U.S.C. s. 13032.

126 Section 3. Section 847.0141, Florida Statutes, is created  
 127 to read:

128 847.0141 Reporting child pornography violations.--An  
 129 interactive computer service, as defined s. 668.602, that is  
 130 doing business in this state that obtains knowledge of facts or  
 131 circumstances from which a violation of any law in this state  
 132 prohibiting child pornography is apparent shall make a report,  
 133 as soon as reasonably possible, of such facts or circumstances  
 134 to the National Center for Missing and Exploited Children  
 135 consistent with the requirements of 42 U.S.C. s. 13032.

136 Section 4. Paragraph (e) is added to subsection (7) of  
 137 section 800.04, Florida Statutes, to read:

138 800.04 Lewd or lascivious offenses committed upon or in  
 139 the presence of persons less than 16 years of age.--

140 (7) LEWD OR LASCIVIOUS EXHIBITION.--

141           (e) It shall not be a defense to a charge under this  
 142 subsection that the victim was actually a law enforcement  
 143 officer posing as a person less than 16 years of age.

144           Section 5. Subsection (8) is added to section 847.0135,  
 145 Florida Statutes, to read:

146           847.0135 Computer pornography; traveling to meet minor;  
 147 penalties.--

148           (8) NOT A DEFENSE.--It shall not be a defense to a charge  
 149 under this section that the victim was actually a law  
 150 enforcement officer posing as a minor.

151           Section 6. Subsections (6) and (7) are added to section  
 152 943.043, Florida Statutes, to read:

153           943.043 Toll-free telephone number; Internet notification;  
 154 sexual predator and sexual offender information; interactive  
 155 computer service liability.--

156           (6) The department shall make the electronic mail and  
 157 instant message name information collected from sexual predators  
 158 and sexual offenders available through a formal mechanism to any  
 159 commercial or nonprofit entity, including child safety  
 160 organizations, educational institutions, and interactive  
 161 computer services as defined in s. 668.602, for the purpose of  
 162 protecting minors from sexual predators and sexual offenders.

163           (7) No provider of an interactive computer service shall  
 164 be liable under this section or any other provision of law:

165           (a) For identifying, removing, disabling, blocking, or  
 166 otherwise affecting a user based on a good faith belief that  
 167 such user's electronic mail address, instant message name, or

168 other similar Internet identifier appeared in the National Sex  
 169 Offender Registry or any analogous state registry; or

170 (b) For failing to identify, block, or otherwise prevent a  
 171 person from registering for its service, or for failing to  
 172 remove, disable, or otherwise affect a registered user, whose  
 173 electronic mail address, instant message name, or other similar  
 174 Internet identifier appears in the National Sex Offender  
 175 Registry or any analogous state registry.

176 Section 7. Section 948.33, Florida Statutes, is created to  
 177 read:

178 948.33 Online monitoring of certain sexual offenders.--

179 (1) A person subject to additional restrictions under any  
 180 provision of s. 948.30 for an offense committed on or after  
 181 October 1, 2008, against a victim who was under 18 years of age  
 182 at the time of the offense shall, in addition to any other  
 183 provision of law, be subject to additional supervision for life  
 184 as provided in this section. The supervision shall be conducted  
 185 by a probation officer, law enforcement officer, or an assigned  
 186 computer information technology specialist in a form and manner  
 187 prescribed by the Attorney General. Conditions imposed pursuant  
 188 to this section do not require oral pronouncement at the time of  
 189 sentencing and shall be considered standard conditions of  
 190 probation or community control for offenders specified in this  
 191 section.

192 (2) Persons subject to lifetime supervision under this  
 193 section shall be subject to:

194 (a) Continued supervision, whether in person or remotely,  
195 of his or her incoming and outgoing e-mail or other Internet-  
196 based communication.

197 (b) Continued supervision, either in person or remotely,  
198 of his or her history of websites visited.

199 (c) Periodic, unannounced inspections of the contents of  
200 his or her computer and any other device with Internet access  
201 owned or used by the offender. Such inspections may include, but  
202 are not limited to, retrieval and copying of all data from the  
203 device and any internal or external storage or portable media  
204 and the removal of such information, computer, device, or media  
205 to conduct an examination for evidence relevant to any offense  
206 that is listed in s. 948.30 committed against a victim who was  
207 under 18 years of age at the time of the offense.

208 (d) Allowing for the use of technologies to create a  
209 unique identifier of his or her computer that will allow law  
210 enforcement to track and monitor online activity.

211 (3) If the Internet was used by the offender in the  
212 commission of the offense described in subsection (1), the  
213 judge, as a part of the offender's sentence, may limit or  
214 restrict the offender's Internet access.

215 (4) An offender subject to lifetime supervision under this  
216 section may petition for release from supervision to the circuit  
217 court having jurisdiction over the original offense. The  
218 offender may not be released from supervision unless he or she  
219 shows by clear and convincing evidence that he or she has not  
220 committed a felony or misdemeanor of any type for 15 years since  
221 his or her last conviction or release from incarceration,



222 whichever is later, and that the offender is not likely to pose  
 223 a threat to the safety of others if released from supervision.

224 (5) An offender who violates a provision of supervision  
 225 under this section commits a felony of the third degree,  
 226 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
 227 and, upon conviction, shall be sentenced to a mandatory minimum  
 228 term of imprisonment of 5 years unless the court finds that in  
 229 that particular case the interests of justice outweigh the need  
 230 to deter the crimes referenced in subsection (1) and that such a  
 231 sentence of imprisonment would be a manifest injustice.

232 Section 8. Paragraph (u) is added to subsection (2) of  
 233 section 1003.42, Florida Statutes, to read:

234 1003.42 Required instruction.--

235 (2) Members of the instructional staff of the public  
 236 schools, subject to the rules of the State Board of Education  
 237 and the district school board, shall teach efficiently and  
 238 faithfully, using the books and materials required that meet the  
 239 highest standards for professionalism and historic accuracy,  
 240 following the prescribed courses of study, and employing  
 241 approved methods of instruction, the following:

242 (u) Internet safety for students, taught at least once to  
 243 students in grade 3 or above in a way that is integrated in the  
 244 instructional program. The department shall develop a model  
 245 curriculum, taking into consideration similar curricula  
 246 developed by the other states as well as any other curricular  
 247 materials suggested by education experts, child psychologists,  
 248 or technology companies working on child online safety issues.

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249 The department shall also provide each district with materials  
250 for parents regarding child online safety.

251

252 The State Board of Education is encouraged to adopt standards  
253 and pursue assessment of the requirements of this subsection.

254 Section 9. This act shall take effect October 1, 2008.