

Senate Bill 387

By: Senators Cheeks of the 23rd, Starr of the 44th, Johnson of the 1st, Gillis of the 20th,  
Beatty of the 47th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to  
2 condition funding for computers with Internet access in schools on adoption of Internet  
3 safety policies; to condition funding for computers with Internet access in public libraries on  
4 adoption of Internet safety policies; to provide for related matters; to provide an effective  
5 date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in Part  
9 9 of Article 6 of Chapter 2, relating to grants for educational programs, by inserting after  
10 Code Section 20-2-252 a new Code Section 20-2-252.1 to read as follows:

11 "20-2-252.1.

12 (a) As used in this Code section, the term:

13 (1) 'Access to Internet' means a computer that is equipped with a modem or is connected  
14 to a computer network which has access to the Internet.

15 (2) 'Child pornography' means any visual depiction, including any photograph, film,  
16 video, picture, or computer or computer generated image or picture, whether made or  
17 produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

18 (A) The production of such visual depiction involves the use of a minor engaging in  
19 sexually explicit conduct;

20 (B) Such depiction is or appears to be of a minor engaging in sexually explicit conduct;

21 (C) Such visual depiction has been created, adapted, or modified to appear that an  
22 identifiable minor is engaging in sexually explicit conduct; or

23 (D) Such visual depiction is advertised, promoted, presented, described, or distributed  
24 in such a manner that conveys the impression that the material is or contains a visual  
25 depiction of a minor engaging in sexually explicit conduct.

1 (3) 'Computer' includes any hardware, software, or other technology attached or  
2 connected to, installed in, or otherwise used in connection with a computer.

3 (4) 'Harmful to minors' has the meaning given such term in Code Section 16-12-100.1.

4 (5) 'Minor' means a person younger than 18 years of age.

5 (6) 'Obscene' has the meaning given to such term in Code Section 16-12-80.

6 (7) 'Sexual conduct' has the meaning given to such term in Code Section 16-12-100.1.

7 (b) No funds made available under subsection (b) of Code Section 20-2-252 to a local  
8 school system for an elementary or secondary school may be used to purchase computers  
9 used to access the Internet or to pay for Internet service costs for the school unless the  
10 school, school board, local educational agency, or other authority with responsibility for  
11 administration of the school both:

12 (1)(A) Has in place an Internet safety policy for minors that includes the operation of  
13 a technology protection measure for any of its computers with access to Internet that  
14 protects against access through the computers to visual depictions that are:

15 (i) Obscene;

16 (ii) Child pornography; or

17 (iii) Harmful to minors; and

18 (B) Is enforcing the operation of the technology protection measure during any use of  
19 the computers by minors; and

20 (2)(A) Has in place an Internet safety policy that includes the operation of a technology  
21 protection measure for any of its computers with access to Internet that protects against  
22 access through the computers to visual depictions that are:

23 (i) Obscene; or

24 (ii) Child pornography; and

25 (B) Is enforcing the operation of the technology protection measure during any use of  
26 the computers.

27 (c) The local school system with responsibility for a school qualified to receive funds  
28 under subsection (b) of Code Section 20-2-252 shall certify that the school is in compliance  
29 as part of the funding process for the state fiscal year beginning July 1, 2002, and for each  
30 subsequent fiscal year thereafter.

31 (d) The local school system with responsibility for a school qualified to receive funds  
32 under subsection (b) of Code Section 20-2-252 that has in place an Internet safety policy  
33 meeting the requirements of subsection (b) of this Code section shall certify its compliance  
34 with subsection (b) of this Code section during each annual funding cycle.

35 (e)(1) The local school system with responsibility for a school that does not have in place  
36 an Internet safety policy meeting the requirements of subsection (b) of this Code section:

1 (A) For the fiscal year beginning July 1, 2002, shall certify that it is undertaking such  
 2 actions, including any necessary procurement procedures, to put in place an Internet  
 3 safety policy that meets the requirements; and

4 (B) For the fiscal year beginning July 1, 2003, and subsequent fiscal years shall certify  
 5 that the school is in compliance with the requirements.

6 (2) Any school qualified to receive funds under subsection (b) of Code Section 20-2-252  
 7 for which the local school system concerned is unable to certify compliance with the  
 8 requirements for the fiscal year beginning July 1, 2003, shall be ineligible for all funding  
 9 under that Code section for that fiscal year and all subsequent fiscal years until the school  
 10 comes into compliance with the requirements.

11 (f) An administrator, supervisor, or person authorized by the responsible authority under  
 12 subsection (b) of this Code section may disable the technology protection measure  
 13 concerned to enable access to Internet for bona fide research or other lawful purposes.

14 (g)(1) Whenever the State Board of Education has reason to believe that any recipient  
 15 of funds under subsection (b) of Code Section 20-2-252 is failing to comply substantially  
 16 with the requirements of this Code section, the State Board of Education may:

17 (A) Withhold further payments to the recipient under subsection (b) of Code Section  
 18 20-2-252; or

19 (B) Enter into a compliance agreement with a recipient to bring it into compliance with  
 20 the requirements.

21 (2) The actions authorized by paragraph (1) of this subsection are the exclusive remedies  
 22 available for the failure of a school to comply substantially with a provision of this Code  
 23 section, and the State Board of Education shall not seek a recovery of funds from the  
 24 recipient for such failure.

25 (3) Whenever the State Board of Education determines by certification or other  
 26 appropriate evidence that a recipient of funds who is subject to the withholding of  
 27 payments under subparagraph (A) of paragraph (1) of this subsection has cured the failure  
 28 providing the basis for the withholding of payments, the State Board of Education shall  
 29 cease the withholding of payments to the recipient under that subparagraph."

## 30 SECTION 2.

31 Said title is further amended in Article 1 of Chapter 5, relating to state public library  
 32 activities, by inserting after Code Section 20-5-3 a new Code Section 20-5-3.1 to read as  
 33 follows:

34 "20-5-3.1.

35 (a) As used in this Code section, the term:

1 (1) 'Access to Internet' means a computer that is equipped with a modem or is connected  
2 to a computer network which has access to the Internet.

3 (2) 'Child pornography' means any visual depiction, including any photograph, film,  
4 video, picture, or computer or computer generated image or picture, whether made or  
5 produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

6 (A) The production of such visual depiction involves the use of a minor engaging in  
7 sexually explicit conduct;

8 (B) Such depiction is or appears to be of a minor engaging in sexually explicit conduct;

9 (C) Such visual depiction has been created, adapted, or modified to appear that an  
10 identifiable minor is engaging in sexually explicit conduct; or

11 (D) Such visual depiction is advertised, promoted, presented, described, or distributed  
12 in such a manner that conveys the impression that the material is or contains a visual  
13 depiction of a minor engaging in sexually explicit conduct.

14 (3) 'Computer' includes any hardware, software, or other technology attached or  
15 connected to, installed in, or otherwise used in connection with a computer.

16 (4) 'Harmful to minors' has the meaning given such term in Code Section 16-12-100.1.

17 (5) 'Minor' means a person younger than 18 years of age.

18 (6) 'Obscene' has the meaning given to such term in Code Section 16-12-80.

19 (7) 'Sexual conduct' has the meaning given to such term in Code Section 16-12-100.1.

20 (b) No funds made available under Code Section 20-5-3 to a legally constituted municipal  
21 or local library board for a public library may be used to purchase computers used to access  
22 the Internet or to pay for Internet service costs unless the library:

23 (1)(A) Has in place an Internet safety policy for minors that includes the operation of  
24 a technology protection measure for any of its computers with access to Internet that  
25 protects against access through the computers to visual depictions that are:

26 (i) Obscene;

27 (ii) Child pornography; or

28 (iii) Harmful to minors; and

29 (B) Is enforcing the operation of the technology protection measure during any use of  
30 the computers by minors; and

31 (2)(A) Has in place an Internet safety policy that includes the operation of a technology  
32 protection measure for any of its computers with access to Internet that protects against  
33 access through the computers to visual depictions that are:

34 (i) Obscene; or

35 (ii) Child pornography; and

36 (B) Is enforcing the operation of the technology protection measure during any use of  
37 the computers.

1 (c) Nothing in this Code section shall be construed to prohibit a library from limiting  
2 access to Internet or otherwise protecting against materials other than those referred to in  
3 divisions (b)(1)(A)(i) through (b)(1)(A)(iii) of this Code section.

4 (d) A library qualified to receive funds under Code Section 20-5-3 shall certify that the  
5 library is in compliance as part of the funding process for the state fiscal year beginning  
6 July 1, 2002, and for each subsequent fiscal year thereafter.

7 (e) A library qualified to receive funds under Code Section 20-5-3 that has in place an  
8 Internet safety policy meeting the requirements of subsection (b) of this Code section shall  
9 certify its compliance with subsection (b) of this Code section during each annual funding  
10 cycle.

11 (f) A library qualified to receive funds under Code Section 20-5-3 that does not have in  
12 place an Internet safety policy meeting the requirements of subsection (b) of this Code  
13 section:

14 (1) For the fiscal year beginning July 1, 2002, shall certify that it is undertaking the  
15 actions, including any necessary procurement procedures, to put in place an Internet  
16 safety policy that meets the requirements; and

17 (2) For the fiscal year beginning July 1, 2003, and subsequent fiscal years shall certify  
18 that the library is in compliance with the requirements. Any library qualified to receive  
19 funds under Code Section 20-5-3 that is unable to certify compliance with the  
20 requirements for the fiscal year beginning July 1, 2003, shall be ineligible for funding  
21 under Code Section 20-5-3 to purchase computers used to access the Internet or to pay  
22 for direct costs associated with accessing the Internet for that fiscal year and all  
23 subsequent fiscal years until the library comes into compliance with the requirements.

24 (g) An administrator, supervisor, or person authorized by the responsible authority under  
25 subsection (b) of this Code section may disable the technology protection measure  
26 concerned to enable access for bona fide research or other lawful purposes.

27 (h)(1) Whenever the board of regents has reason to believe that any recipient of funds  
28 under Code Section 20-5-3 is failing to comply substantially with the requirements of this  
29 Code section, the board of regents may:

30 (A) Withhold further payments to the recipient under Code Section 20-5-3; or

31 (B) Enter into a compliance agreement with a recipient to bring it into compliance with  
32 the requirements.

33 (2) The actions authorized by paragraph (1) of this subsection are the exclusive remedies  
34 available for the failure of a library to comply substantially with a provision of this Code  
35 section, and the board of regents shall not seek a recovery of funds from the recipient for  
36 such failure.

1 (3) Whenever the board of regents determines by certification or other appropriate  
2 evidence that a recipient of funds who is subject to the withholding of payments under  
3 subparagraph (A) of paragraph (1) of this subsection has cured the failure providing the  
4 basis for the withholding of payments, the board of regents shall cease the withholding  
5 of payments to the recipient under that subparagraph."

6 **SECTION 3.**

7 This Act shall become effective upon its approval by the Governor or upon its becoming law  
8 without such approval.

9 **SECTION 4.**

10 All laws and parts of laws in conflict with this Act are repealed.