

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.