

House Bill 1364

By: Representatives Rice of the 79th, Squires of the 78th, Holland of the 157th, Watson of the 70th, Hudgens of the 24th 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 provide for technology protection measures for school computers with Internet access; to
3 provide a short title; to condition funding for electronic technology in schools on adoption
4 of Internet safety policies; to provide for technology protection measures for public library
5 computers with Internet access; to condition funding for electronic technology in public
6 libraries on adoption of Internet safety policies; to provide for related matters; to provide an
7 effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Children's Internet Protection Act."

11 **SECTION 2.**

12 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in Part
13 9 of Article 6 of Chapter 2, relating to grants for educational programs, by inserting after
14 Code Section 20-2-252 a new Code Section 20-2-252.1 to read as follows:

15 "20-2-252.1.

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

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

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

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

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

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

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

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

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

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

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

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

12 (b) No funds made available under subsection (b) of Code Section 20-2-252 to a local
13 school system for an elementary or secondary school may be used to purchase computers
14 used to access the Internet or to pay for direct costs associated with accessing the Internet
15 for the school unless the school, school board, local educational agency, or other authority
16 with responsibility for administration of the school both:

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

20 (i) Obscene;

21 (ii) Child pornography; or

22 (iii) Harmful to minors; and

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

25 (2)(A) Has in place a policy of Internet safety that includes the operation of a
26 technology protection measure with respect to any of its computers with access to
27 Internet that protects against access through the computers to visual depictions that are:

28 (i) Obscene; or

29 (ii) Child pornography; and

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

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

36 (d) The local school system with responsibility for a school qualified to receive funds
37 under subsection (b) of Code Section 20-2-252 that has in place an Internet safety policy

1 meeting the requirements of subsection (b) of this Code section shall certify its compliance
2 with subsection (b) of this Code section during each annual funding cycle.

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

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

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

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

15 (f) In addition to any other state funding, any school qualified to receive funds under
16 subsection (b) of Code Section 20-2-252 that certifies compliance in accordance with
17 subsection (c) or paragraph (1) of subsection (e) of this Code section shall be eligible for
18 a state grant for up to 25 percent of the cost of the technology protection measures through
19 the term of the certification period.

20 (g) No entitlement to funds is created by subsection (f) of this Code section. In the event
21 funds available are not sufficient for the full grant prescribed by the General Assembly,
22 grants to the schools shall be reduced on a pro rata basis.

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

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

29 (A) Withhold further payments to the recipient under subsection (b) of Code Section
30 20-2-252; 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 with respect to the failure of a school to comply substantially with a provision
35 of this Code section, and the State Board of Education shall not seek a recovery of funds
36 from the recipient for such failure.

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

6 SECTION 3.

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

10 "20-5-3.1.

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

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

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

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

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

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

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

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

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

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

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

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

31 (b) No funds made available under Code Section 20-5-3 to a legally constituted municipal
 32 or local library board for a public library may be used to purchase computers used to access
 33 the Internet or to pay for direct costs associated with accessing the Internet unless the
 34 library:

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

4 (i) Obscene;

5 (ii) Child pornography; or

6 (iii) Harmful to minors; and

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

9 (2)(A) Has in place a policy of Internet safety that includes the operation of a
10 technology protection measure with respect to any of its computers with access to
11 Internet that protects against access through the computers to visual depictions that are:

12 (i) Obscene; or

13 (ii) Child pornography; and

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

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

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

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

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

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

32 (2) For the fiscal year beginning July 1, 2003, and subsequent fiscal years shall certify
33 that the library is in compliance with the requirements. Any library qualified to receive
34 funds under Code Section 20-5-3 that is unable to certify compliance with the
35 requirements for the fiscal year beginning July 1, 2003, shall be ineligible for funding
36 under Code Section 20-5-3 to purchase computers used to access the Internet or to pay

1 for direct costs associated with accessing the Internet for that fiscal year and all
2 subsequent fiscal years until the library comes into compliance with the requirements.

3 (g) In addition to any other state funding, any library qualified to receive funds under Code
4 Section 20-5-3 that certifies compliance in accordance with subsection (d) or subsection (f)
5 of this Code section shall be eligible for a state grant for up to 25 percent of the cost of the
6 technology protection measures through the term of the certification period.

7 (h) No entitlement to funds is created by subsection (g) of this Code section. In the event
8 funds available are not sufficient for the full grant prescribed by the General Assembly,
9 grants to the libraries shall be reduced on a pro rata basis.

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

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

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

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

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

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

28 **SECTION 4.**

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

31 **SECTION 5.**

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