

Senators Cheeks of the 23rd, Starr of the 44th, Johnson of the 1st, Beatty of the 47th, Polak of the 42nd and Lamutt of the 21st offered the following substitute to SB 387:

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

9 **SECTION 2.**

10 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in Part
11 9 of Article 6 of Chapter 2, relating to grants for educational programs, by inserting after
12 Code Section 20-2-252 a new Code Section 20-2-252.1 to read as follows:

13 "20-2-252.1.

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

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

17 (2) 'Bulletin board systems' means electronic networks of computers that are connected
18 by a central computer setup and operated by a system administrator or operator whereby
19 users link their individual computers to central bulletin board system computer which
20 allows them to post messages, read messages left by others, trade information, or hold
21 direct conversations.

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

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

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

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

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

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

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

12 (6) 'Internet' means a global network that connects computers via telephone lines, fiber
13 networks, or both, to electronic information.

14 (7) 'Law enforcement agency' means a governmental unit of one or more persons
15 employed full time or part-time by the state, a state agency or department, or a political
16 subdivision of the state for the purpose of preventing and detecting crime and enforcing
17 state law or local ordinances, employees of which unit are authorized to make arrests for
18 crimes which acting within the scope of their authority.

19 (8) 'Minor' means a person younger than 18 years of age.

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

21 (10) 'Preschool program' shall mean any educational, preschool program which is
22 supervised by the Office of School Readiness.

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

24 (b) No local school system for elementary or secondary school which receives funds made
25 available under subsection (b) of Code Section 20-2-252 to purchase computers used to
26 access the Internet or pay for direct costs associated with accessing the Internet shall use
27 said funds unless the school, school board, local educational agency, or other authority with
28 responsibility for administration of the school:

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

32 (i) Obscene;

33 (ii) Child pornography; or

34 (iii) Harmful to minors; and

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

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

4 (i) Obscene; or

5 (ii) Child pornography; and

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

8 (3) Has in place a policy to report to the local law enforcement agency any Internet sites
 9 or bulletin boards found to contain child pornography and which solicit, entice, or exploit
 10 minors in connection with pornographic or sexual conduct activities.

11 (c) The local school system with responsibility for a school qualified to receive funds
 12 under subsection (b) of Code Section 20-2-252 shall certify the compliance of the school
 13 as part of the funding process for the state fiscal year beginning July 1, 2003, and for each
 14 subsequent fiscal year thereafter.

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

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

21 (A) For the fiscal year beginning July 1, 2003, shall certify that it is undertaking such
 22 actions, including any necessary procurement procedures, to put in place an Internet
 23 safety policy that meets the requirements; and

24 (B) For the fiscal year beginning July 1, 2004, and subsequent fiscal years shall certify
 25 that the school is in compliance with the requirements.

26 (2) Any school qualified to receive funds under subsection (b) of Code Section 20-2-252
 27 for which the local school system concerned is unable to certify compliance with the
 28 requirements for the fiscal year beginning July 1, 2004, shall be ineligible for all funding
 29 under that Code section for that fiscal year and all subsequent fiscal years until the school
 30 comes into compliance with the requirements.

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

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

1 a compliance agreement with a recipient to bring it into compliance with the requirements
2 which if broken may result in the withholding of further payments to the recipient under
3 subsection (b) of Code Section 20-2-252.

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

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

13 (h) Any preschool program where minors have access to the Internet, bulletin board
14 systems, or both, shall:

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

18 (i) Obscene;

19 (ii) Child pornography; or

20 (iii) Harmful to minors; and

21 (B) Is enforcing the operation of the technology protection measure during any use of
22 the computers by minors, and

23 (2)(A) Have in place a policy of Internet safety with respect to any of its computers
24 with access to Internet that protects against access through the computers to visual
25 depictions that are:

26 (i) Obscene; or

27 (ii) Child pornography; and

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

30 (3) The preschool program shall have until July 1, 2004, to come in compliance with
31 this subsection."

32 SECTION 3.

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

1 "20-5-3.1.

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

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

5 (2) 'Bulletin board systems' means electronic networks of computers that are connected
6 by a central computer setup and operated by a system administrator or operator whereby
7 users link their individual computers to central bulletin board system computer which
8 allows them to post messages, read messages left by others, trade information, or hold
9 direct conversations.

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

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

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

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

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

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

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

24 (6) 'Internet' means a global network that connects computers via telephone lines, fiber
25 networks, or both, to electronic information.

26 (7) 'Law enforcement agency' means a governmental unit of one or more persons
27 employed full time or part-time by the state, a state agency or department, or a political
28 subdivision of the state for the purpose of preventing and detecting crime and enforcing
29 state law or local ordinances, employees of which unit are authorized to make arrests for
30 crimes which acting within the scope of their authority.

31 (8) 'Minor' means a person younger than 18 years of age.

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

33 (10) 'Preschool program' shall mean any educational, preschool program which is
34 supervised by the Office of School Readiness.

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

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

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

8 (i) Obscene;

9 (ii) Child pornography; or

10 (iii) Harmful to minors; and

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

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

16 (i) Obscene; or

17 (ii) Child pornography; and

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

20 (3) Has in place a policy to report to the local law enforcement agency any Internet sites
21 or bulletin boards found to contain child pornography and which solicit, entice, or exploit
22 minors in connection with pornographic or sexual conduct activities.

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

26 (d) A library qualified to receive funds under Code Section 20-5-3 shall certify the
27 compliance of the library as part of the funding process for the state fiscal year beginning
28 July 1, 2003, and for each subsequent fiscal year thereafter.

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

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

1 (1) For the fiscal year beginning July 1, 2003, shall certify that it is undertaking the
2 actions, including any necessary procurement procedures, to put in place an Internet
3 safety policy that meets the requirements; and

4 (2) For the fiscal year beginning July 1, 2004, and subsequent fiscal years shall certify
5 that the library is in compliance with the requirements. Any library qualified to receive
6 funds under Code Section 20-5-3 that is unable to certify compliance with the
7 requirements for the fiscal year beginning July 1, 2004, shall be ineligible for funding
8 under Code Section 20-5-3 to purchase computers used to access the Internet or to pay
9 for direct costs associated with accessing the Internet for that fiscal year and all
10 subsequent fiscal years until the library comes into compliance with the requirements.

11 (g) 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 for bona fide research or other lawful purposes.

14 (h)(1) Whenever the board of regents has reason to believe that any recipient of funds
15 under Code Section 20-5-3 is failing to comply substantially with the requirements of this
16 Code section, the board of regents may enter into a compliance agreement with a
17 recipient to bring it into compliance with the requirements which if broken may result in
18 the withholding of further payments to the recipient under Code Section 20-5-3.

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