

Senate Bill 52

By: Senators Shafer of the 48th, Price of the 56th, Johnson of the 1st, Hooks of the 14th,
Tate of the 38th 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 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 that 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 a 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 visual depiction is or appears to be of a minor engaging in sexually explicit
4 conduct;

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

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

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

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

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

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

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

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

22 (10) 'Preschool program' means any educational, preschool program that is supervised
23 by the Office of School Readiness.

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

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

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

33 (i) Obscene;

34 (ii) Child pornography; or

35 (iii) Harmful to minors; and

36 (B) Is enforcing the operation of the technology protection measure during any use of
37 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 that 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 school's compliance as part
13 of the funding process for the state fiscal year beginning July 1, 2004, 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, 2004, 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 of subsection (b) of this Code section; and

24 (B) For the fiscal year beginning July 1, 2005, and subsequent fiscal years shall certify
25 that the school is in compliance with the requirements of subsection (b) of this Code
26 section.

27 (2) Any school qualified to receive funds under subsection (b) of Code Section 20-2-252
28 for which the local school system concerned is unable to certify compliance with the
29 requirements of subsection (b) of this Code section for the fiscal year beginning July 1,
30 2005, shall be ineligible for all funding under that Code section for that fiscal year and
31 all subsequent fiscal years until the school comes into compliance with such
32 requirements.

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

36 (g)(1) Whenever the State Board of Education has reason to believe that any recipient
37 of funds under subsection (b) of Code Section 20-2-252 is failing to comply substantially

1 with the requirements of this Code section, the State Board of Education may enter into
 2 a compliance agreement with a recipient to bring it into compliance with such
 3 requirements which if broken may result in the withholding of further payments to the
 4 recipient under subsection (b) of Code Section 20-2-252.

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

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

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

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

- 19 (i) Obscene;
- 20 (ii) Child pornography; or
- 21 (iii) Harmful to minors; and

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

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

- 27 (i) Obscene; or
- 28 (ii) Child pornography; and

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

31 (3) The preschool program shall have until July 1, 2005, to come into compliance with
 32 this subsection."

33 SECTION 3.

34 Said title is further amended in Article 1 of Chapter 5, relating to state public library
 35 activities, by inserting after Code Section 20-5-3 a new Code Section 20-5-3.1 to read as
 36 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 that 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 a 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 visual depiction is or appears to be of a minor engaging in sexually explicit
16 conduct;

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

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

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

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

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

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

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

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

34 (10) 'Preschool program' means any educational, preschool program that is supervised
35 by the Office of School Readiness.

36 (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 that 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 its
27 compliance with subsection (b) of this Code section as part of the funding process for the
28 state fiscal year beginning July 1, 2004, 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:

36 (1) For the fiscal year beginning July 1, 2004, shall certify that it is undertaking the
37 actions, including any necessary procurement procedures, necessary to put in place an

1 Internet safety policy that meets the requirements of subsection (b) of this Code section;
2 and

3 (2) For the fiscal year beginning July 1, 2005, and subsequent fiscal years shall certify
4 that it is in compliance with the requirements of subsection (b) of this Code section.

5 (3) Any library qualified to receive funds under Code Section 20-5-3 that is unable to
6 certify compliance with the requirements of subsection (b) of this Code section for the
7 fiscal year beginning July 1, 2005, shall be ineligible for funding under Code Section
8 20-5-3 to purchase computers used to access the Internet or to pay for direct costs
9 associated with accessing the Internet for that fiscal year and all subsequent fiscal years
10 until the library comes into compliance with such 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 so as 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 such
17 recipient to bring it into compliance with the requirements of subsection (b) of this Code
18 section which if broken may result in the withholding of further payments to the recipient
19 under Code Section 20-5-3.

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

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

29 **SECTION 4.**

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

32 **SECTION 5.**

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