Senate Bill 474

By: Senators Staton of the 18th, Heath of the 31st, Douglas of the 17th, Powell of the 23rd, Thomas of the 54th and others

AS PASSED

A BILL TO BE ENTITLED

AN ACT

To amend Part 2 of Article 6 of Chapter 2 of Title 20, Title 39, Code Section 42-1-12, and Code Section 42-8-35 of the Official Code of Georgia Annotated, relating to competencies and core curriculum, minors, the State Sexual Offender Registry, and terms and conditions of probation, respectively, so as to provide greater protection to children with regard to the use of the Internet; to provide for the development and distribution of Internet online safety education and information; to provide for definitions; to provide for the availability of parental controls over Internet access by minors; to provide for immunity for interactive computer service providers; to provide for the crime of failing to report certain information to the Cyber Tipline at the National Center for Missing and Exploited Children; to provide for penalties; to require registered sexual offenders to provide additional information as a part of the required registration information; to provide for additional probationary conditions for a probationer who has been convicted of a criminal offense against a victim who is a minor or dangerous sexual offense as those terms are defined in Code Section 42-1-12; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 2 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to competencies and core curriculum, is amended by adding a new Code section to read as follows:

″20-2-149.

(a) The Department of Education shall develop a model program for educating students regarding online safety while using the Internet, taking into consideration educational materials on this topic developed by other states as well as any other materials suggested by education experts, child psychologists, and technology companies that promote child online safety issues.

(b) Each local board of education may incorporate into its instructional program a component on online Internet safety to be taught on a schedule as determined by the local board of education.″

SECTION 2.

Title 39 of the Official Code of Georgia Annotated, relating to minors, is amended by adding a new chapter to read as follows:

″CHAPTER 5

39-5-1.

As used in this chapter, the term:

(1) 'Internet or any other computer network' means the computer network commonly known as the Internet and any other local, regional, or global computer network that is similar to or is a predecessor or successor of the Internet.

(2) 'Internet access provider' means an entity that provides consumers with access to the Internet; provided, however, that such term shall not include an entity that provides access to the Internet using wireless service.

(3) 'Interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions; provided, however, that such term shall not include an entity that provides access to the Internet using wireless service.

(4) 'Minor' means a person who is less than 18 years of age.

(5) 'Wireless service' shall have the same meaning as set forth in paragraph (3) of Code Section 46-5-221.

39-5-2.

(a) If an Internet access provider knows or has reason to know from registration data in its possession that a subscriber currently resides within this state, such provider shall make available to the subscriber, in accordance with subsection (c) of this Code section, a product or service that enables the subscriber to control a minor´s use of the Internet, if such product or service is reasonably and commercially available for the technology used by the subscriber to access the Internet.

(b) The product or service shall enable, in a commercially reasonable manner, the subscriber to:

(1) Block a minor´s access to specific websites or domains;

(2) Restrict a minor´s access exclusively to specific websites or domains approved by the subscriber; and

(3) Allow the subscriber to monitor a minor´s use of the Internet service by providing a report to the subscriber of the specific websites or domains that the minor has visited or has attempted to visit but could not access because the websites or domains were blocked or restricted by the subscriber.

(c) If a product or service described in this Code section is reasonably and commercially available for the technology utilized by the subscriber to access the Internet service, the Internet service provider shall:

(1) Provide to the subscriber, at or near the time of subscription, information about the availability of a product or service described in this Code section; or

(2) Make a product or service described in this Code section available to the subscriber either directly or through a third-party vendor and may charge for the product or service.

39-5-3.

(a) Telecommunications service providers, wireless service providers, and providers of information services, including, but not limited to Internet service providers and hosting service providers, shall not be liable under this chapter by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications or information services used by others in violation of this chapter.

(b) No provider of an interactive computer service shall be liable under this chapter for:

(1) Identifying, removing, disabling, blocking, or otherwise affecting a user based upon a good faith belief that user´s e-mail address, username, or other similar Internet identifier appeared in the National Sex Offender Registry or the state sexual offender registry; or

(2) Failing to identify, block, or otherwise prevent a person from registering for an interactive computer service or failing to remove, disable, or otherwise affect a registered user whose e-mail address, username, or other similar Internet identifier appeared in the National Sex Offender Registry or the state sexual offender registry.

39-5-4.

(a) An interactive computer service doing business in this state that obtains knowledge of facts or circumstances from which a violation of any law of this state prohibiting child pornography is apparent shall make a report, as soon as reasonably possible, of such facts and circumstances to the Cyber Tipline at the National Center for Missing and Exploited Children.

(b) Any interactive computer service that knowingly and willfully violates subsection (a) of this Code section shall be guilty of a misdemeanor and upon a second or subsequent conviction shall be guilty of a misdemeanor of a high and aggravated nature."

SECTION 3.

Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the State Sexual Offender Registry, is amended by revising subsection (a) of Code Section 42-1-12, by adding two new paragraphs to read as follows:

"(21.1) 'Username' means a string of characters chosen to uniquely identify an individual who uses a computer or other device with Internet capability to communicate with other individuals through the exchange of e-mail or instant messages or by participating in interactive online forums.

(21.2) 'User password' means a string of characters that enables an individual who uses a computer or other device with Internet capability to gain access to e-mail messages and interactive online forums."

SECTION 4.

Said Code section is further amended by revising subparagraphs (a)(16)(J) and (a)(16)(K) as follows:

"(J) If enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the name, address, and county of each institution, including each campus attended, and enrollment or employment status; ~~and~~

(K) E-mail addresses, usernames, and user passwords; and

(L) The name of the crime or crimes for which the sexual offender is registering and the date released from prison or placed on probation, parole, or supervised release."

SECTION 5.

Code Section 42-8-35 of the Official Code of Georgia Annotated, relating to terms and conditions of probation, is amended by revising subsection (b) as follows:

"(b) In determining the terms and conditions of probation for a probationer who has been convicted of a criminal offense against a victim who is a minor or dangerous sexual offense as those terms are defined in Code Section 42-1-12, the court may provide that the probationer shall be:

(1) Prohibited from entering or remaining present at a victim´s school, place of employment, place of residence, or other specified place at times when a victim is present or from loitering in areas where minors congregate, child care facilities, churches, or schools as those terms are defined in Code Section 42-1-12;

(2) Required to wear a device capable of tracking the location of the probationer by means including electronic surveillance or global positioning systems. The department shall assess and collect fees from the probationer for such monitoring at levels set by regulation by the department; ~~and~~

(3) Required, either in person or through remote monitoring, to allow viewing and recording of the probationer´s incoming and outgoing e-mail, history of websites visited and content accessed, and other Internet based communication;

(4) Required to have periodic unannounced inspections of the contents of the probationer´s computer or any other device with Internet access including the retrieval and copying of all data from the computer or device and any internal or external storage or portable media and the removal of such information, computer, device, or medium; and

(5) Prohibited from seeking election to a local board of education.

(c) The supervision provided for under subsection (b) of this Code section shall be conducted by a probation officer, law enforcement officer, or computer information technology specialist working under the supervision of a probation officer or law enforcement agency.″

SECTION 6.

This Act shall become effective on July 1, 2008; provided, however, that Sections 3 and 4 of this Act shall become effective on January 1, 2009.

SECTION 7.

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