

MAR 4 2005

EDUCATION

HOUSE FILE 594

BY ALONS, DOLECHECK, CHAMBERS,
ROBERTS, DE BOEF, and
CARROLL

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act prohibiting the provision of state library services to,
2 and certain use of state funds by, school districts, area
3 education agencies, and public libraries that do not have in
4 place nor enforce certain internet use policies and technology
5 protection measures.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

HF 594

1 Section 1. NEW SECTION. 256.57 CHILD INTERNET SAFETY
2 REQUIREMENTS -- STATE FUNDING AND SERVICES SANCTIONS.

3 1. LIMITATION ON AVAILABILITY OF CERTAIN FUNDS. State
4 funds appropriated for distribution to public libraries in
5 this state shall not be used to purchase computers used to
6 access the internet or to pay for direct costs associated with
7 accessing the internet, nor shall a public library receive
8 services from the state library at a discount, unless the
9 public library certifies annually to the state librarian that
10 the public library meets the following conditions:

11 a. Has in place an internet use policy for minors that
12 includes the operation of a technology protection measure with
13 respect to any of its computers with internet access that
14 protects against access through such computers to visual
15 depictions that are obscene, child pornography, or harmful to
16 minors.

17 b. Has in place an internet use policy for adults that
18 includes the operation of a technology protection measure with
19 respect to any of its computers with internet access that
20 protects against access through such computers to visual
21 depictions that are obscene or child pornography.

22 c. Is enforcing the operation of a technology protection
23 measure during any use of its computers.

24 2. INTERNET USE POLICY FOR MINORS.

25 a. In carrying out its responsibilities under subsection
26 1, each public library to which subsection 1 applies shall do
27 all of the following:

28 (1) Adopt and implement an internet use policy that
29 addresses all of the following:

30 (a) Access by minors to inappropriate matter on the
31 internet and world wide web.

32 (b) The safety and security of minors when using
33 electronic mail, chat rooms, and other forms of direct
34 electronic communications.

35 (c) Unauthorized access, including so-called "hacking",

1 and other unlawful activities by users online.

2 (d) Unauthorized disclosure, use, and dissemination of
3 personal identification information regarding minors.

4 (e) Measures designed to restrict minors' access to
5 materials harmful to minors.

6 (2) Provide reasonable public notice and hold at least one
7 public hearing or meeting to address the proposed internet use
8 policy.

9 b. A determination regarding what matter is inappropriate
10 for minors shall be made by a public library that is subject
11 to subsection 1.

12 c. Each internet use policy adopted under this section
13 shall be made available to the state librarian, upon request
14 of the state librarian, by the public library.

15 3. DISABLING DURING CERTAIN USE. An administrator,
16 supervisor, librarian, or other authority of the public
17 library may disable a technology protection measure under
18 subsection 1 to enable limited access for bona fide research
19 or other lawful purposes.

20 4. LIBRARIES WITHOUT INTERNET USE POLICIES AND TECHNOLOGY
21 PROTECTION MEASURES IN PLACE. In order to receive any state
22 funds appropriated or allocated for public library purposes, a
23 public library that does not have in place an internet use
24 policy meeting the requirements of subsection 1 shall certify
25 to the state librarian that it is undertaking such actions,
26 including any necessary procurement procedures, to put in
27 place an internet use policy that meets such requirements.
28 The library shall be ineligible for state funding appropriated
29 for public library purposes in the following fiscal year if
30 the library is unable to certify compliance with the
31 requirements of subsection 1.

32 5. WAIVERS. A public library unable to certify compliance
33 in the following fiscal year as provided in subsection 4 may
34 seek a one-year waiver from such compliance from the state
35 librarian and shall be eligible to receive state funding

1 during that fiscal year.

2 6. REMEDIES FOR NONCOMPLIANCE. Whenever the state
3 librarian has reason to believe that a public library
4 receiving state funds is failing to comply substantially with
5 the requirements of subsection 1, the state librarian may do
6 any of the following:

7 a. Withhold further payments of state funds appropriated
8 or allocated for public library purposes to the public library
9 until the state librarian determines that the public library
10 is in substantial compliance with the requirements of
11 subsection 1.

12 b. Issue an order to compel compliance of the public
13 library.

14 c. Enter into a compliance agreement with the public
15 library specifying requirements for bringing it into
16 compliance with the requirements of subsection 1.

17 7. RECOVERY OF FUNDS PROHIBITED. The actions authorized
18 by subsection 6 are the exclusive remedies available with
19 respect to the failure of a public library to comply
20 substantially with a provision of this section and the
21 director of the department of education shall not seek a
22 recovery of funds from the public library for such failure.

23 8. DISCLAIMERS. Nothing in this section shall be
24 construed to do the following:

25 a. Prohibit a public library from blocking or limiting
26 access to, or otherwise protecting against, materials on the
27 internet on computers owned or operated by the library which
28 include any content other than content covered by this
29 section.

30 b. Require the tracking of internet use by any
31 identifiable minor or adult user.

32 c. Prohibit a library from limiting internet access to or
33 otherwise protecting against materials other than those
34 referred to in this section.

35 9. DEFINITIONS. The definitions in section 257.51 are

1 applicable to this section.

2 10. EXCEPTION. Notwithstanding subsection 1, if the
3 general assembly appropriates state funds for such purpose, a
4 public library may use state funds for the purchase or
5 acquisition of technology protection measures that are
6 necessary to meet the requirements of this section.

7 Sec. 2. NEW SECTION. 257.51 CHILD INTERNET SAFETY
8 REQUIREMENTS -- STATE FUNDING AND SERVICES SANCTIONS.

9 1. LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR
10 SCHOOLS. State funds allocated to a school district or area
11 education agency for school library purposes shall not be used
12 to purchase computers used to access the internet or to pay
13 for direct costs associated with accessing the internet, nor
14 shall a school library receive services from the state library
15 at a discount, unless the board of directors of the school
16 district or the board of directors of the area education
17 agency certifies annually to the department of education and
18 the state librarian that the school district or area education
19 agency meets the following conditions:

20 a. Has in place an internet use policy for minors that
21 includes the operation of a technology protection measure with
22 respect to any of its computers with internet access that
23 protects against access through such computers to visual
24 depictions that are obscene, child pornography, or harmful to
25 minors.

26 b. Has in place an internet use policy for adults that
27 includes the operation of a technology protection measure with
28 respect to any of its computers with internet access that
29 protects against access through such computers to visual
30 depictions that are obscene or child pornography.

31 c. Is enforcing the operation of a technology protection
32 measure during any use of its computers.

33 2. INTERNET USE POLICY.

34 a. In carrying out its responsibilities under subsection
35 1, each school district or area education agency to which

1 subsection 1 applies shall do all of the following:

2 (1) Adopt and implement an internet use policy that
3 addresses all of the following:

4 (a) Access by minors to inappropriate matter on the
5 internet and world wide web.

6 (b) The safety and security of minors when using
7 electronic mail, chat rooms, and other forms of direct
8 electronic communications.

9 (c) Unauthorized access, including so-called "hacking",
10 and other unlawful activities by users online.

11 (d) Unauthorized disclosure, use, and dissemination of
12 personal identification information regarding minors.

13 (e) Measures designed to restrict minors' access to
14 materials harmful to minors.

15 (2) Provide reasonable public notice and hold at least one
16 public hearing or meeting to address the proposed internet use
17 policy.

18 b. A determination regarding what matter is inappropriate
19 for minors shall be made by the school board or area education
20 agency.

21 c. Each internet use policy adopted under this section
22 shall be made available to the department of education, upon
23 request of the department, by the school board and area
24 education agency.

25 3. SCHOOLS WITHOUT INTERNET USE POLICIES AND TECHNOLOGY
26 PROTECTION MEASURES IN PLACE. In order to receive any state
27 funds appropriated or allocated for school library purposes, a
28 school district or area education agency with responsibility
29 for a school library that does not have in place an internet
30 use policy meeting the requirements of subsection 1 shall
31 certify to the department of education that it is undertaking
32 such actions, including any necessary procurement procedures,
33 to put in place an internet use policy that meets such
34 requirements. The school district or area education agency
35 shall be ineligible for state funding appropriated or

1 allocated for school library purposes in the following school
2 year if the school district or area education agency is unable
3 to certify compliance with the requirements of subsection 1.

4 4. WAIVERS. A school district or area education agency
5 unable to certify compliance in the following school year as
6 provided in subsection 3 may seek a one-year waiver from such
7 compliance from the director of the department of education
8 and shall be eligible to receive state funding during that
9 fiscal year.

10 5. DISABLING DURING CERTAIN USE. An administrator,
11 supervisor, or person authorized by the school district or
12 area education agency may disable a technology protection
13 measure to enable limited access for bona fide research or
14 other lawful purposes.

15 6. REMEDIES FOR NONCOMPLIANCE. Whenever the director of
16 the department of education has reason to believe that any
17 school district or area education agency receiving state funds
18 is failing to comply substantially with the requirements of
19 subsection 1, the director of the department of education may
20 do any of the following:

21 a. Withhold further payments of state funds appropriated
22 or allocated for school library purposes to the school
23 district or area education agency until the director of the
24 department of education determines that the school district or
25 area education agency is in substantial compliance with the
26 requirements of subsection 1.

27 b. Issue an order to compel compliance of the school
28 district or area education agency.

29 c. Enter into a compliance agreement with a school
30 district or area education agency specifying requirements for
31 bringing it into compliance with the requirements of
32 subsection 1.

33 7. RECOVERY OF FUNDS PROHIBITED. The actions authorized
34 by subsection 6 are the exclusive remedies available with
35 respect to the failure of a school district or area education

1 agency to comply substantially with a provision of this
2 section, and the director of the department of education shall
3 not seek a recovery of funds from the school district or area
4 education agency for such failure.

5 8. DISCLAIMERS. Nothing in this section shall be
6 construed to do the following:

7 a. Prohibit an elementary or secondary school, area
8 education agency, or school library from blocking access on
9 the internet on computers owned or operated by the school,
10 agency, or school library to any content other than content
11 covered by this section.

12 b. Require the tracking of internet use by any
13 identifiable minor or adult user.

14 9. EXCEPTION. Notwithstanding subsection 1, if the
15 general assembly appropriates and provides for the
16 distribution of state funds to a school district or area
17 education agency for such purpose, the school district or area
18 education agency may use state funds for the purchase or
19 acquisition of technology protection measures that are
20 necessary to meet the requirements of this section.

21 10. DEFINITIONS. For purposes of this section, unless the
22 context otherwise requires:

23 a. "Access to internet" means connection to the internet
24 through a modem or a computer network.

25 b. "Acquisition or operation" means use by an elementary
26 or secondary school of state funds, directly or indirectly, to
27 do any of the following:

28 (1) Purchase, lease, or otherwise acquire or obtain the
29 use of a computer.

30 (2) Obtain services, supplies, software, or other actions
31 or materials to support, or in connection with, the operation
32 of a computer.

33 c. "Child pornography" means any visual depiction,
34 including any photograph, film, video, picture, or computer or
35 computer-generated image or picture, whether made or produced

1 by electronic, mechanical, or other means, of sexually
2 explicit conduct, where any of the following applies:

3 (1) The production of such visual depiction involves the
4 use of a minor engaging in sexually explicit conduct.

5 (2) Such visual depiction is, or appears to be, of a minor
6 engaging in sexually explicit conduct.

7 (3) Such visual depiction has been created, adapted, or
8 modified to appear that an identifiable minor is engaging in
9 sexually explicit conduct.

10 (4) Such visual depiction is advertised, promoted,
11 presented, described, or distributed in such a manner that
12 conveys the impression that the material is or contains a
13 visual depiction of a minor engaging in sexually explicit
14 conduct.

15 d. "Computer" means any hardware, software, or other
16 technology attached or connected to, installed in, or
17 otherwise used in connection with a computer.

18 e. "Harmful to minors" means any picture, image, graphic
19 image file, or other visual depiction that meets all of the
20 following conditions:

21 (1) Taken as a whole and with respect to minors, appeals
22 to a prurient interest in nudity, sex, or excretion.

23 (2) Depicts, describes, or represents, in a patently
24 offensive way with respect to what is suitable for minors, an
25 actual or simulated sex act or sexual contact, actual or
26 simulated normal or perverted sexual acts, or a lewd
27 exhibition of the genitals.

28 (3) Taken as a whole, lacks serious literary, artistic,
29 political, or scientific value as to minors.

30 f. "Minor" means an individual who has not attained the
31 age of seventeen.

32 g. "Sex act" means the same as defined in section 702.17.

33 h. "Sexual contact" means the intentional touching, either
34 directly or through the clothing, of the genitalia, anus,
35 groin, breast, inner thigh, or buttocks of any person with an

1 intent to abuse, humiliate, harass, degrade, or arouse or
2 gratify the sexual desire of any person.

3 i. "Technology protection measure" means a specific
4 technology that blocks or filters internet access to visual
5 depictions that are obscene, child pornography, or harmful to
6 minors.

7 EXPLANATION

8 This bill places limitations on the use of state funds by
9 school and public libraries and on the provision of services
10 to those libraries by the state library.

11 The bill provides that state moneys may not be used to
12 purchase computers used to access the internet or to pay for
13 direct costs associated with accessing the internet, nor shall
14 a school library receive services from the state library at a
15 discount, unless the authorities responsible for the libraries
16 certify annually to the department of education or the state
17 librarian as appropriate that the school libraries and public
18 libraries have in place and enforce internet use policies for
19 minors and adults that include the operation of a technology
20 protection measure that filters visual depictions that are
21 obscene, child pornography, and, in the case of the internet
22 use policy for minors, harmful to minors.

23 The bill specifies the areas that must be addressed by the
24 policy, requires public notice and a hearing to address the
25 proposed policy, and makes the school district, area education
26 agency, or public library, as appropriate, responsible for
27 determining what matter is inappropriate for minors.

28 The policies must be made available to the department of
29 education or the state librarian, as appropriate, upon
30 request.

31 A school district, area education agency, or public library
32 that does not have a policy and technology protection measures
33 in place must certify to the appropriate authority that it is
34 undertaking such actions and will be ineligible for state
35 funding appropriated or allocated for school library purposes

1 in the following fiscal year if unable to certify compliance
2 by the following fiscal year.

3 A school district, area education agency, or public library
4 may seek a one-year waiver from the appropriate authority.

5 An administrator, supervisor, or person authorized by the
6 school district, area education agency, or public library may
7 disable a technology protection measure to enable access for
8 bona fide research or other lawful purposes.

9 When a library remains in noncompliance, the director of
10 the department of education or the state librarian, as
11 appropriate, may withhold further payments of state funds,
12 issue an order to compel compliance, or enter into a
13 compliance agreement with a school district, area education
14 agency, or public library to bring it into compliance.
15 However, neither the director nor the state librarian can
16 recover funds once distributed.

17 The bill does not prevent a school district, area education
18 agency, or public library from exceeding the blocking measures
19 required under the bill, nor does it require tracking of
20 internet use by any identifiable minor or adult user.

21 The bill allows state funds, if appropriated for library
22 purposes, to be used for the purchase or acquisition of
23 technology protection measures.

24
25
26
27
28
29
30
31
32
33
34
35