

**Second Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 04-0017.01 Bob Lackner

HOUSE BILL 04-1004

HOUSE SPONSORSHIP

Stafford, and Welker

SENATE SPONSORSHIP

Lamborn,

House Committees

Information & Technology

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ENHANCED PROTECTION FOR CHILD USERS OF PUBLIC**
102 **LIBRARY SERVICES FROM HARMFUL MATERIALS ON THE**
103 **INTERNET.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires the governing body of each public library by a specified date to adopt and implement a policy of internet safety for minors that includes the operation of a technology protection measure for each computer operated by the public library that allows for access to the internet by a minor.

After the adoption and implementation of the internet safety policy, requires the governing body of each public library to continue to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
February 4, 2004

enforce the operation of the technology protection measure for each computer operated by the public library that allows for access to the internet by a minor.

Allows the technology protection measure to be temporarily disabled to enable access to the internet by an adult for bona fide research or other lawful purposes. Allows the technology protection measure to be temporarily disabled to enable access to the internet by a minor for bona fide research or other lawful purposes where the internet use is supervised by an administrator, supervisor, or other authorized person. Specifies that the technology protection measure shall not be disabled in connection with a computer located in a children's room of a public library facility.

Provides that nothing in the act shall be construed to require any additional action on the part of any public library that is already in compliance with the requirements of the act as of its effective date. Provides that nothing in the act shall be construed to require any additional action on the part of any library in circumstances where:

No moneys exist in the budget for such library for the purchase of a technology protection measure that satisfies the requirements of the act; or

After a good faith effort, the library is unable to acquire a technology protection measure free of charge that satisfies the requirements of the act.

Provides that nothing in the act shall be construed to prohibit a public library from limiting internet access or otherwise protecting against materials other than those that are obscene, child pornography, or harmful to minors.

Makes legislative findings and declarations. Defines terms.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 90 of title 24, Colorado Revised Statutes,
3 is amended BY THE ADDITION OF A NEW PART to read:

4 **PART 6**

5 **INTERNET PROTECTION IN PUBLIC LIBRARIES**

6 **24-90-601. Legislative declaration.** THE GENERAL ASSEMBLY
7 HEREBY FINDS AND DECLARES THAT USE OF THE INTERNET IN THE PUBLIC
8 LIBRARIES OF THE STATE PROVIDES AN EXTRAORDINARY, UNIQUE, AND
9 UNPARALLELED EDUCATIONAL RESOURCE AND SOURCE OF KNOWLEDGE

1 AND INFORMATION. THE GENERAL ASSEMBLY FURTHER FINDS AND
2 DECLARES THAT REASONABLE MEASURES MUST BE ADOPTED AND
3 IMPLEMENTED TO PROTECT THE CHILDREN WHO USE SUCH INTERNET
4 SERVICES IN PUBLIC LIBRARIES FROM ACCESS TO MATERIAL THAT IS
5 HARMFUL TO THEIR BENEFICIAL DEVELOPMENT AS RESPONSIBLE ADULTS
6 AND CITIZENS. IT IS THE INTENT OF THE GENERAL ASSEMBLY BY ENACTING
7 THIS PART 6 THAT PUBLIC LIBRARIES BE REQUIRED TO ADOPT AND ENFORCE
8 REASONABLE POLICIES OF INTERNET SAFETY THAT ARE CONSISTENT WITH
9 THE FEDERAL "CHILDREN'S INTERNET PROTECTION ACT", AS AMENDED,
10 (P.L. NO. 106-554), AND THAT WILL PROTECT CHILDREN FROM ACCESS TO
11 HARMFUL MATERIAL WITHOUT COMPROMISING RESPONSIBLE ADULT USE OF
12 INTERNET SERVICES IN SUCH LIBRARIES.

13 **24-90-602. Definitions.** AS USED IN THIS PART 6, UNLESS THE
14 CONTEXT OTHERWISE REQUIRES:

15 (1) "ACCESS TO THE INTERNET" MEANS, WITH REFERENCE TO A
16 PARTICULAR COMPUTER, THAT THE COMPUTER IS EQUIPPED WITH A MODEM
17 OR IS CONNECTED TO A COMPUTER NETWORK THAT PROVIDES ACCESS TO
18 THE INTERNET.

19 (2) "COMPUTER" INCLUDES ANY HARDWARE, SOFTWARE, OR OTHER
20 TECHNOLOGY ATTACHED OR CONNECTED TO, INSTALLED IN, OR OTHERWISE
21 USED IN CONNECTION WITH A COMPUTER.

22 (3) "HARMFUL TO MINORS" MEANS ANY PICTURE, IMAGE, GRAPHIC
23 IMAGE FILE, OR OTHER VISUAL DEPICTION THAT:

24 (a) TAKEN AS A WHOLE AND WITH RESPECT TO MINORS, APPEALS
25 TO A PRURIENT INTEREST IN NUDITY, SEX, OR EXCRETION;

26 (b) DEPICTS, DESCRIBES, OR REPRESENTS, IN A PATENTLY
27 OFFENSIVE WAY WITH RESPECT TO WHAT IS SUITABLE FOR MINORS, AN

1 ACTUAL OR SIMULATED SEXUAL ACT OR SEXUAL CONTACT, AN ACTUAL OR
2 SIMULATED NORMAL OR PERVERTED SEXUAL ACT, OR A LEWD EXHIBITION
3 OF THE GENITALS; AND

4 (c) TAKEN AS A WHOLE, LACKS SERIOUS LITERARY, ARTISTIC,
5 POLITICAL, OR SCIENTIFIC VALUE AS TO MINORS.

6 (4) "MINOR" MEANS ANY PERSON WHO HAS NOT ATTAINED THE AGE
7 OF SEVENTEEN YEARS.

8 (5) "PUBLIC LIBRARY" SHALL HAVE THE SAME MEANING AS SET
9 FORTH IN SECTION 24-90-103 (13). FOR PURPOSES OF THIS PART 6, A
10 "PUBLIC LIBRARY" SHALL BE THE EQUIVALENT OF THE LIBRARY SYSTEM
11 ESTABLISHED AND MAINTAINED BY THE GOVERNING BODY OF A
12 PARTICULAR LIBRARY DISTRICT OR OTHERWISE CONNECTED GROUP OF
13 LIBRARIES AND SHALL NOT MEAN EACH SEPARATE OR INDIVIDUAL LIBRARY
14 FACILITY ESTABLISHED AND MAINTAINED BY SUCH LIBRARY DISTRICT OR
15 CONNECTED GROUP OF LIBRARIES.

16 (6) "SEXUAL ACT" OR "SEXUAL CONTACT" SHALL HAVE THE SAME
17 MEANING AS SET FORTH IN 18 U.S.C. SEC. 2246 (2) AND (3).

18 (7) "TECHNOLOGY PROTECTION MEASURE" MEANS A SPECIFIC
19 TECHNOLOGY, INCLUDING WITHOUT LIMITATION COMPUTER SOFTWARE,
20 THAT BLOCKS OR FILTERS INTERNET ACCESS TO VISUAL DEPICTIONS THAT
21 ARE:

22 (a) OBSCENE, AS DEFINED IN SECTION 18-7-101 (2), C.R.S.;

23 (b) CHILD PORNOGRAPHY, AS DEFINED IN 18 U.S.C. SEC. 2256 (8);

24 OR

25 (c) HARMFUL TO MINORS; EXCEPT THAT NO TECHNOLOGY
26 PROTECTION MEASURE MAY BLOCK SCIENTIFIC OR MEDICALLY ACCURATE
27 INFORMATION REGARDING SEXUAL ASSAULT, SEXUAL ABUSE, INCEST,

1 SEXUALLY TRANSMITTED DISEASES, OR REPRODUCTIVE HEALTH.

2 **24-90-603. Adoption and enforcement of policy of internet**
3 **safety for minors including technology protection measures - public**
4 **libraries.** (1) NO LATER THAN DECEMBER 31, 2004, THE GOVERNING
5 BODY OF EACH PUBLIC LIBRARY SHALL ADOPT AND IMPLEMENT A POLICY
6 OF INTERNET SAFETY FOR MINORS THAT INCLUDES THE OPERATION OF A
7 TECHNOLOGY PROTECTION MEASURE FOR EACH COMPUTER OPERATED BY
8 THE PUBLIC LIBRARY THAT ALLOWS FOR ACCESS TO THE INTERNET BY A
9 MINOR.

10 (2) AFTER THE ADOPTION AND IMPLEMENTATION OF THE POLICY OF
11 INTERNET SAFETY REQUIRED BY SUBSECTION (1) OF THIS SECTION, THE
12 GOVERNING BODY OF EACH PUBLIC LIBRARY SHALL CONTINUE TO ENFORCE
13 THE POLICY AND THE OPERATION OF THE TECHNOLOGY PROTECTION
14 MEASURE FOR EACH COMPUTER OPERATED BY THE PUBLIC LIBRARY THAT
15 ALLOWS FOR ACCESS TO THE INTERNET BY A MINOR.

16 **24-90-604. Temporary disabling of technology protection**
17 **measure.** (1) (a) SUBJECT TO THE REQUIREMENTS OF PARAGRAPH (b) OF
18 THIS SUBSECTION (1), AN ADMINISTRATOR, SUPERVISOR, OR ANY OTHER
19 PERSON AUTHORIZED BY THE PUBLIC LIBRARY TO ENFORCE THE OPERATION
20 OF THE TECHNOLOGY PROTECTION MEASURE ADOPTED AND IMPLEMENTED
21 IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 24-90-603 MAY
22 TEMPORARILY DISABLE THE TECHNOLOGY PROTECTION MEASURE ENTIRELY
23 TO ENABLE ACCESS TO THE INTERNET ON A PARTICULAR COMPUTER ABLE
24 TO BE ACCESSED BY A MINOR BY:

25 (I) AN ADULT UPON REQUEST WITHOUT SIGNIFICANT DELAY BY THE
26 PUBLIC LIBRARY IN RESPONDING TO THE REQUEST; OR

27 (II) A MINOR FOR BONA FIDE RESEARCH OR OTHER LAWFUL

1 PURPOSES WHERE THE INTERNET USE IN CONNECTION WITH THE RESEARCH
2 OR OTHER LAWFUL PURPOSE IS SUPERVISED BY AN ADMINISTRATOR,
3 SUPERVISOR, PARENT, GUARDIAN, OR OTHER PERSON AUTHORIZED BY THE
4 PUBLIC LIBRARY TO PERFORM SUCH FUNCTION.

5 (b) WHERE THE PUBLIC LIBRARY HAS INSTALLED A TECHNOLOGY
6 PROTECTION MEASURE THAT REQUIRES ELECTRONIC VERIFICATION OF THE
7 AGE OF THE COMPUTER USER, OR WHERE THE PARENT OR GUARDIAN OF A
8 MINOR HAS PROVIDED EXPLICIT PRIOR APPROVAL FOR USE OF THE
9 COMPUTER BY THE MINOR, BEFORE THE TECHNOLOGY PROTECTION
10 MEASURE REQUIRED BY SECTION 24-90-603 IS DISABLED, NO ADDITIONAL
11 INVOLVEMENT BY THE STAFF OF THE PUBLIC LIBRARY SHALL BE REQUIRED.

12 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
13 THE TEMPORARY DISABLING OF THE TECHNOLOGY PROTECTION MEASURE
14 AUTHORIZED BY THIS SECTION SHALL NOT BE ALLOWED IN CONNECTION
15 WITH A COMPUTER LOCATED IN AN AREA IN A PUBLIC LIBRARY FACILITY
16 USED PRIMARILY BY MINORS.

17 **24-90-605. No restrictions on blocking access to the internet of**
18 **other material.** NOTHING IN THIS PART 6 SHALL BE CONSTRUED TO
19 PROHIBIT A PUBLIC LIBRARY FROM LIMITING INTERNET ACCESS OR
20 OTHERWISE PROTECTING AGAINST MATERIALS OTHER THAN THOSE THAT
21 ARE OBSCENE, CHILD PORNOGRAPHY, OR HARMFUL TO MINORS.

22 **24-90-606. No requirement of additional action for public**
23 **libraries already in compliance - no additional action in special**
24 **circumstances.** (1) NOTHING IN THIS PART 6 SHALL BE CONSTRUED TO
25 REQUIRE ANY ADDITIONAL ACTION ON THE PART OF ANY PUBLIC LIBRARY
26 THAT IS ALREADY IN COMPLIANCE WITH THE REQUIREMENTS OF THIS PART
27 6 AS OF JULY 1, 2004.

1 (2) NOTHING IN THIS PART 6 SHALL BE CONSTRUED TO REQUIRE
2 ANY ADDITIONAL ACTION ON THE PART OF ANY PUBLIC LIBRARY IN
3 CIRCUMSTANCES WHERE:

4 (a) NO MONEYS EXIST IN THE BUDGET FOR SUCH LIBRARY FOR THE
5 PURCHASE OF A TECHNOLOGY PROTECTION MEASURE THAT SATISFIES THE
6 REQUIREMENTS OF THIS PART 6; OR

7 (b) AFTER A GOOD FAITH EFFORT, THE LIBRARY IS UNABLE TO
8 ACQUIRE A TECHNOLOGY PROTECTION MEASURE FREE OF CHARGE THAT
9 SATISFIES THE REQUIREMENTS OF THIS PART 6.

10 **SECTION 2. Effective date.** This act shall take effect July 1,
11 2004.

12 **SECTION 3. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.