

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 04-1004

BY REPRESENTATIVE(S) Stafford, Welker, Coleman, Crane, Decker, Harvey, Hefley, Lee, May M., Paccione, Rhodes, Spence, and Williams S.; also SENATOR(S) Lamborn, Andrews, Arnold, Dyer, Entz, Groff, Grossman, Hagedorn, Hillman, Johnson S., Jones, Kester, May R., Tapia, and Teck.

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

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

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

PART 6 INTERNET PROTECTION IN PUBLIC LIBRARIES

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

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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

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

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

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

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

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

(b) DEPICTS, DESCRIBES, OR REPRESENTS, IN A PATENTLY OFFENSIVE WAY WITH RESPECT TO WHAT IS SUITABLE FOR MINORS, AN ACTUAL OR SIMULATED SEXUAL ACT OR SEXUAL CONTACT, AN ACTUAL OR SIMULATED NORMAL OR PERVERTED SEXUAL ACT, OR A LEWD EXHIBITION OF THE GENITALS; AND

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

(4) "MINOR" MEANS ANY PERSON WHO HAS NOT ATTAINED THE AGE

OF SEVENTEEN YEARS.

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

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

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

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

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

(c) HARMFUL TO MINORS; EXCEPT THAT NO TECHNOLOGY PROTECTION MEASURE MAY BLOCK SCIENTIFIC OR MEDICALLY ACCURATE INFORMATION REGARDING SEXUAL ASSAULT, SEXUAL ABUSE, INCEST, SEXUALLY TRANSMITTED DISEASES, OR REPRODUCTIVE HEALTH.

24-90-603. Adoption and enforcement of policy of internet safety for minors including technology protection measures - public libraries.

(1) NO LATER THAN DECEMBER 31, 2004, THE GOVERNING BODY OF EACH PUBLIC LIBRARY SHALL 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.

(2) AFTER THE ADOPTION AND IMPLEMENTATION OF THE POLICY OF INTERNET SAFETY REQUIRED BY SUBSECTION (1) OF THIS SECTION, THE GOVERNING BODY OF EACH PUBLIC LIBRARY SHALL CONTINUE TO ENFORCE THE POLICY AND 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.

24-90-604. Temporary disabling of technology protection measure. (1) (a) (I) SUBJECT TO THE REQUIREMENTS OF PARAGRAPH (b) OF THIS SUBSECTION (1), AN ADMINISTRATOR, SUPERVISOR, OR ANY OTHER PERSON AUTHORIZED BY THE PUBLIC LIBRARY TO ENFORCE THE OPERATION OF THE TECHNOLOGY PROTECTION MEASURE ADOPTED AND IMPLEMENTED IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 24-90-603 SHALL TEMPORARILY DISABLE THE TECHNOLOGY PROTECTION MEASURE ENTIRELY TO ENABLE ACCESS TO THE INTERNET ON A PARTICULAR COMPUTER ABLE TO BE ACCESSED BY A MINOR BY AN ADULT UPON REQUEST WITHOUT SIGNIFICANT DELAY BY THE PUBLIC LIBRARY IN RESPONDING TO THE REQUEST.

(II) SUBJECT TO THE REQUIREMENTS OF PARAGRAPH (b) OF THIS SUBSECTION (1), AN ADMINISTRATOR, SUPERVISOR, OR ANY OTHER PERSON AUTHORIZED BY THE PUBLIC LIBRARY TO ENFORCE THE OPERATION OF THE TECHNOLOGY PROTECTION MEASURE ADOPTED AND IMPLEMENTED IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 24-90-603 MAY TEMPORARILY DISABLE THE TECHNOLOGY PROTECTION MEASURE ENTIRELY TO ENABLE ACCESS TO THE INTERNET ON A PARTICULAR COMPUTER ABLE TO BE ACCESSED BY A MINOR FOR BONA FIDE RESEARCH OR OTHER LAWFUL PURPOSES WHERE THE INTERNET USE IN CONNECTION WITH THE RESEARCH OR OTHER LAWFUL PURPOSE IS SUPERVISED BY AN ADMINISTRATOR, SUPERVISOR, PARENT, GUARDIAN, OR OTHER PERSON AUTHORIZED BY THE PUBLIC LIBRARY TO PERFORM SUCH FUNCTION.

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

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

24-90-605. No restrictions on blocking access to the internet of

other material. NOTHING IN THIS PART 6 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.

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

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

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

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

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

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

Lola Spradley
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

John Andrews
PRESIDENT OF
THE SENATE

Judith Rodrigue
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Mona Heustis
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO