

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 276

AN ACT

To repeal sections 182.825 and 182.827, RSMo, and to enact in lieu thereof three new sections relating to access to pornographic materials.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 182.825 and 182.827, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 182.825, 182.826, and 182.827, to read as follows:

182.825. As used in sections 182.825, 182.826, and 182.827, the following terms mean:

(1) "Digital library catalog", an electronic database, application, or website that lists or provides resources or materials, including, but not limited to, books, electronic books, periodicals, and multimedia content, including, but not limited to, images, audio, and videos;

(2) "Explicit sexual material", as that term is defined in section 573.010;

(3) "Pornographic for minors", as that term is defined in section 573.010;

[(2)] (4) "Public access computer", a computer or other electronic device that is:

(a) Located in an elementary or secondary public school, charter school, or public library;

(b) Frequently or regularly used directly by a minor;
and

(c) Connected to any [computer] electronic communication system.

182.826. 1. A public elementary or secondary school, including a public charter school, shall provide parents and guardians of students access to any digital library catalog provided to students.

2. Each school district and charter school providing students access to a digital library catalog shall appoint an administrator of the digital library catalog whose duties shall include excluding from the digital library catalog any resource or material that is explicit sexual material or pornographic for minors. The identity and workplace location of the administrator of a digital library catalog shall be made available upon request.

3. Each school district and charter school shall adopt a resources challenge policy that:

(1) Is easily accessible to the public, and notice of which is provided to parents of students, along with access to the digital library catalog, and at least once per school year, as part of a curriculum notice;

(2) Allows any taxpayer in the district to dispute or challenge any resource or material provided or recommended by any school employee, including materials present in the school library or digital library catalog, as explicit sexual material or pornographic for minors; and

(3) Requires the school district or charter school to maintain a list disclosing to the public, and permanently publish on the district's or school's website, the results of all such disputes or challenges.

4. Any parent or guardian of a student may bring a civil action against any school district or charter school, as well as any school board member, charter school governing body member, or other school district, public school, or charter school officer or employee, including library personnel and administrators of digital library catalogs,

for intentionally or negligently making available to his or her student explicit sexual material or materials that are pornographic for minors. Such action shall be brought in the county where the violation occurred. If the parent or guardian prevails in establishing negligence by a preponderance of the evidence, the court shall award to the parent five hundred dollars per violation plus court costs and reasonable attorney's fees. If the parent or guardian prevails in establishing an intentional violation by a preponderance of the evidence, the court shall award to the parent two thousand dollars per violation plus court costs and reasonable attorney's fees.

182.827. 1. A public school or public charter school that provides a public access computer or a digital library catalog shall do one or both of the following:

(1) Equip **[the]** every computer or digital library catalog with software that will **[limit]** restrict minors' ability to gain access to material that is pornographic for minors or explicit sexual materials, or purchase internet connectivity from an internet service provider that provides filter services to **[limit]** restrict access to material that is pornographic for minors or explicit sexual material;

(2) Develop and implement by January 1, **[2003]** 2026, a policy that is consistent with community standards and establishes measures to restrict minors from gaining computer access or digital library catalog access to material that is pornographic for minors or explicit sexual material.

2. The department of elementary and secondary education shall establish rules and regulations for the enforcement of subsection 1 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in

this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

3. A public library that provides a public access computer or digital library catalog shall do one or both of the following:

(1) Equip ~~the~~ every computer or digital library catalog with software that will ~~limit~~ restrict minors' ability to gain access to material that is pornographic for minors or explicit sexual material, or purchase internet connectivity from an internet service provider that provides filter services to ~~limit~~ restrict access to material that is pornographic for minors or explicit sexual material;

(2) Develop and implement by January 1, ~~2003~~ 2026, a policy that is consistent with community standards and establishes measures to restrict minors from gaining computer access or digital library catalog access to material that is pornographic for minors or explicit sexual material.

4. The secretary of state shall establish rules and regulations for the enforcement of subsection 3 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and

if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

5. Any public school board member, charter school governing body member, or other public school, school district, or charter school officer or employee, including library personnel, who willfully neglects or refuses to perform a duty imposed by this section shall be subject to the penalties imposed pursuant to section 162.091.

6. [A public school or public school board member, officer or employee, including library personnel, public library or public library board member, officer, employee or trustee that complies with subsection 1 or 3 of this section or an internet service provider providing internet connectivity to such public school or library in order to comply with this section shall not be criminally liable or liable for any damages that might arise from a minor gaining access to material that is pornographic for minors through the use of a public access computer that is owned or controlled by the public school or public library] Any parent of a student may bring a civil action, including an action for injunctive relief or for damages, against any school board member, charter school governing body member, or other school district, public school, or charter school officer or employee, including library personnel, for any violation of this section that occurs as a result of gross negligence or intentional or willful and wanton misconduct by such school board member, officer, or employee, including library personnel. Such action shall be brought in the county where the violation occurred. If the parent

prevails, the court shall award to such parent court costs
and reasonable attorney's fees and any other damages or
remedy which in the judgment of the court shall be
appropriate.