

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 665
91ST GENERAL ASSEMBLY

Reported from the Committee on Local Government and Related Matters, May 10, 2002, with recommendation that the House Committee Substitute for Senate Substitute for Senate Bill No. 665 Do Pass.

TED WEDEL, Chief Clerk

3059L.05C

AN ACT

To amend chapters 43, 182 and 565, RSMo, by adding thereto six new sections relating to public libraries, with penalty provisions.

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

Section A. Chapters 43, 182 and 565, RSMo, are amended by adding thereto six new sections, to be known as sections 43.653, 43.656, 43.659, 182.825, 182.827, and 566.151, to read as follows:

43.653. The state highway patrol is hereby authorized to create, direct, control and supervise the "Missouri Regional Computer Forensics Lab" (RCFL). The state highway patrol has the ability to bring together federal, state, and local resources to fight computer crimes for the purposes listed in section 43.656.

43.656. It is hereby found and declared that:

(1) With the widespread use of computers, the Internet and electronic devices to commit crimes and the critical lack of resources at state and local levels;

(2) Modern day criminals have learned to exploit the Internet and electronic communication to leverage computer technology to reach a virtually unlimited number of victims while maintaining a maximum level of anonymity, computer crimes will continue to mount, especially in, but not limited to, the areas of child pornography and sexual offenses involving children, consumer fraud and harassment.

(3) It is necessary for the protection of the citizens of this state that provisions be made for the establishment of the Missouri regional computer forensics lab to prevent and reduce

computer, Internet and other electronically-based crimes.

43.659. The state highway patrol shall have the power, as necessary or convenient to carry out and effectuate the purposes and provisions of sections 43.653 to 43.656, to enter into agreements or other transactions with, negotiate memorandum of understanding with all governmental agencies, participate in interstate computer forensic matters as they relate to the purposes of the center, both within and outside the state when necessary or appropriate, or when required to do so by a proper authority and accept grants and the cooperation of, the United States or any agency or instrumentality thereof or of this state or any agency or instrumentality thereof, in furtherance of the purposes of this section, and to do any and all things necessary in order to avail itself of such aid and cooperation.

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

- (1) "Pornographic for minors", as that term is defined in section 573.010, RSMo;
- (2) "Public access computer", a computer that is:
 - (a) Located in an elementary or secondary public school or public library, but not including a computer within any library located in any public institution of higher education;
 - (b) Frequently or regularly used directly by a minor; and
 - (c) Connected to any computer communication system.

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

- (1) Equip the computer with software that will limit minors' ability to gain access to material that is pornographic for minors or purchase Internet connectivity from an Internet service provider that provides filter services to limit access to material that is pornographic for minors;

- (2) Develop and implement by January 1, 2003, a policy that is consistent with community standards and establishes measures to restrict minors from gaining computer access to material that is pornographic for minors.

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, RSMo, 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, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, 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 shall do one or both of the

following:

(1) Equip the computer with software that will limit minors' ability to gain access to material that is pornographic for minors or purchase Internet connectivity from an Internet service provider that provides filter services to limit access to material that is pornographic for minors;

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

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, RSMo, 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, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, 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, 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, RSMo.

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.

566.151. 1. A person at least twenty-one years of age or older commits the crime of enticement of a child if that person persuades, solicits, coaxes, entices, or lures whether by words, actions or through communication via the Internet or any electronic communication, any person who is less than fifteen years of age for the purpose of engaging in sexual conduct with a child.

2. It is not an affirmative defense to a prosecution for a violation of this section that the other person was a peace officer masquerading as a minor.

3. Attempting to entice a child is a class D felony.

4. Enticement of a child is a class C felony unless the person has previously pled guilty to or been found guilty of violating the provisions of this section, section 568.045, 568.050, or

section 568.060, RSMo, or chapter 566, RSMo, in which case it is a class B felony.

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