

SECOND REGULAR SESSION

SENATE BILL NO. 1280

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR COLEMAN.

4700S.01I

KRISTINA MARTIN, Secretary

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
2 repealed and three new sections enacted in lieu thereof, to be
3 known as sections 182.825, 182.826, and 182.827, to read as
4 follows:

182.825. As used in sections 182.825, **182.826**, and
2 182.827, the following terms mean:

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

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

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

12 [(2)] (4) **"Public access computer"**, a computer **or**
13 **other electronic device** that is:

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

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted
and is intended to be omitted in the law.**

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

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

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

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

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

28 4. Any parent or guardian of a student may bring a
29 civil action against any school district or charter school,
30 as well as any school board member, charter school governing
31 body member, or other school district, public school, or
32 charter school officer or employee, including library
33 personnel and administrators of digital library catalogs,
34 for intentionally or negligently making available to his or
35 her student explicit sexual material or materials that are
36 pornographic for minors. Such action shall be brought in
37 the county where the violation occurred. If the parent or
38 guardian prevails in establishing negligence by a
39 preponderance of the evidence, the court shall award to the
40 parent five hundred dollars per violation plus court costs
41 and reasonable attorney's fees. If the parent or guardian
42 prevails in establishing an intentional violation by a
43 preponderance of the evidence, the court shall award to the
44 parent two thousand dollars per violation plus court costs
45 and reasonable attorney's fees.

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

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

11 (2) Develop and implement by January 1, [2003] 2027, a
12 policy that is consistent with community standards and
13 establishes measures to restrict minors from gaining
14 computer access **or** digital library catalog access to

15 material that is pornographic for minors **or explicit sexual**
16 **material.**

17 2. The department of elementary and secondary
18 education shall establish rules and regulations for the
19 enforcement of subsection 1 of this section. Any rule or
20 portion of a rule, as that term is defined in section
21 536.010, that is created under the authority delegated in
22 this section shall become effective only if it complies with
23 and is subject to all of the provisions of chapter 536 and,
24 if applicable, section 536.028. This section and chapter
25 536 are nonseverable and if any of the powers vested with
26 the general assembly pursuant to chapter 536 to review, to
27 delay the effective date or to disapprove and annul a rule
28 are subsequently held unconstitutional, then the grant of
29 rulemaking authority and any rule proposed or adopted after
30 August 28, 2002, shall be invalid and void.

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

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

41 (2) Develop and implement by January 1, **[2003] 2027**, a
42 policy that is consistent with community standards and
43 establishes measures to restrict minors from gaining
44 computer access **or digital library catalog access** to
45 material that is pornographic for minors **or explicit sexual**
46 **material.**

47 4. The secretary of state shall establish rules and
48 regulations for the enforcement of subsection 3 of this
49 section. Any rule or portion of a rule, as that term is
50 defined in section 536.010, that is created under the
51 authority delegated in this section shall become effective
52 only if it complies with and is subject to all of the
53 provisions of chapter 536 and, if applicable, section
54 536.028. This section and chapter 536 are nonseverable and
55 if any of the powers vested with the general assembly
56 pursuant to chapter 536 to review, to delay the effective
57 date or to disapprove and annul a rule are subsequently held
58 unconstitutional, then the grant of rulemaking authority and
59 any rule proposed or adopted after August 28, 2002, shall be
60 invalid and void.

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

67 6. [A public school or public school board member,
68 officer or employee, including library personnel, public
69 library or public library board member, officer, employee or
70 trustee that complies with subsection 1 or 3 of this section
71 or an internet service provider providing internet
72 connectivity to such public school or library in order to
73 comply with this section shall not be criminally liable or
74 liable for any damages that might arise from a minor gaining
75 access to material that is pornographic for minors through
76 the use of a public access computer that is owned or
77 controlled by the public school or public library] **Any**
78 **parent of a student may bring a civil action, including an**

79 action for injunctive relief or for damages, against any
80 school board member, charter school governing body member,
81 or other school district, public school, or charter school
82 officer or employee, including library personnel, for any
83 violation of this section that occurs as a result of gross
84 negligence or intentional or willful and wanton misconduct
85 by such school board member, officer, or employee, including
86 library personnel. Such action shall be brought in the
87 county where the violation occurred. If the parent
88 prevails, the court shall award to such parent court costs
89 and reasonable attorney's fees and any other damages or
90 remedy which in the judgment of the court shall be
91 appropriate.

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