

# SENATE BILL NO. 1280

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR COLEMAN.

4700S.011

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2 repealed and three new sections enacted in lieu thereof, to be  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.**

(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.

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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