



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5564

Introduced 01/27/06, by Rep. Linda Chapa LaVia

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.663 new
30 ILCS 805/8.30 new

Creates the Internet Screening in Public Libraries Act. Provides that each public library must have a technology protection measure to prevent the display on a public computer of any visual depictions that are obscene, child pornography, or harmful to minors. Authorizes enforcement by the Attorney General or an individual. Provides that each public library must annually certify, under penalty of perjury, its compliance with this Act. Allows a public library to disable the technology protection measure for an adult engaged in legitimate research or some other lawful purpose. Amends the State Finance Act to create the Internet Screening in Public Libraries Fund. Fines under the Act are to be deposited into the Fund. Amounts in the Fund are to be used by the State Librarian, subject to appropriation, to implement and administer the Act. Amends the State Mandates Act to require implementation without reimbursement.

LRB094 17072 BDD 52354 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Internet Screening in Public Libraries Act.

6 Section 5. Purpose. In accordance with Section 20 of
7 Article I of the Illinois Constitution, the General Assembly
8 finds that the installation and operation by public libraries
9 of technology protection measures that protect against access
10 (i) by adults to visual depictions that are obscene or child
11 pornography and (ii) by minors to visual depictions that are
12 obscene, child pornography, or harmful to minors fulfill an
13 important State interest.

14 Section 10. Definitions. In this Act:

15 "Administrative unit" means the entity designated by the
16 State or a unit of local government or school district as
17 responsible for the administration of all public library
18 locations established or maintained by that governmental
19 entity.

20 "Child pornography" means any film, videotape, photograph,
21 or other similar visual reproduction or depiction by computer
22 of any child or severely or profoundly mentally retarded person
23 whom the person knows or reasonably should know to be under the
24 age of 18 or to be a severely or profoundly mentally retarded
25 person, engaged in any activity described in subparagraphs (i)
26 through (vii) of paragraph (1) of Section 11-20.1 of the
27 Criminal Code of 1961 (720 ILCS 5/11-20.1).

28 "Depiction harmful to minors" means any picture, image,
29 graphic image file, or other visual depiction that:

30 (1) taken as a whole and with respect to minors,
31 appeals to a prurient interest in nudity, sex, or

1 excretion;

2 (2) depicts, describes, or represents, in a patently
3 offensive way with respect to what is suitable for minors,
4 an actual or simulated sexual act, a lewd exhibition of the
5 genitals, or a normal or perverted sexual contact; or

6 (3) taken as a whole, lacks serious literary, artistic,
7 political, or scientific value to minors.

8 "Minor" means a person who is younger than 18 years of age.

9 "Obscene" has the meaning ascribed to that term in Section
10 11-20 of the Criminal Code of 1961 (720 ILCS 5/11-20).

11 "Public computer" means a computer, as that term is defined
12 in Section 16D-2 of the Computer Crime Prevention Law (720 ILCS
13 5/16D-2), that is made available to the public and that has
14 Internet access.

15 "Public library" means any library established or
16 maintained by the State or by any unit of local government or
17 school district in this State.

18 "Technology protection measure" means software or the
19 equivalent technology that blocks or filters Internet access to
20 the visual depictions that are proscribed under this Act.

21 Section 15. Public library Internet safety policy. Each
22 public library must create and enforce an Internet safety
23 policy that provides for the:

24 (1) installation and operation of a technology protection
25 measure on all public computers in the library that protects
26 against access through those computers:

27 (A) by adults to visual depictions that are obscene or
28 child pornography; and

29 (B) by minors to visual depictions that are obscene,
30 child pornography, or harmful to minors; and

31 (2) disablement of the technology protection measure by an
32 employee of the public library upon an adult's request to use
33 the computer for legitimate research or some other lawful
34 purpose.

1 Section 20. Procedures. If a public library fails to comply
2 with Section 15, the Attorney General or a citizen of this
3 State is authorized to seek enforcement as provided in this
4 Section. The Attorney General or a citizen shall first mail to
5 the applicable administrative unit a notice of intended civil
6 action for enforcement that shall identify each public library
7 location at which a violation is alleged to have occurred and
8 shall specify the facts and circumstances of the alleged
9 violation of Section 15. Within 15 days after the receipt of
10 the notice, the administrative unit shall mail to the party
11 that sent the notice a written response indicating whether the
12 administrative unit disputes that an alleged violation
13 occurred with the reason it disputes the allegation or whether
14 each public library location identified in the notice has
15 complied with or has initiated reasonable efforts toward
16 compliance with the requirements of Section 15. If the Attorney
17 General or the citizen does not receive a written response
18 within 25 days after receipt of the notice by the
19 administrative unit, or if after receiving the written
20 response, the Attorney General or the citizen is not satisfied
21 that compliance with the requirements of Section 15 has been
22 rendered or that reasonable efforts toward compliance have been
23 initiated, the party that sent the notice may bring a civil
24 action to enforce Section 15 in the circuit court of the county
25 in which the administrative unit is located.

26 All mailings required by this Section shall be certified
27 with return receipt requested.

28 No cause of action, except that authorized by this Section,
29 shall arise in favor of a person due to the failure of a public
30 library to comply with Section 15.

31 Section 25. Enforcement. In connection with the
32 enforcement of this Act, the court shall impose a fine upon the
33 administrative unit in the amount of \$100 per day per public
34 library location found to have violated Section 15. Accrual of
35 the fine shall begin on the date that the administrative unit

1 received the notice of the intended civil action for
2 enforcement. In an action brought by a citizen, if the court
3 finds a violation of Section 15, the court shall award
4 reasonable attorney's fees and costs to be paid by the
5 administrative unit to the prevailing citizen. The clerk of the
6 circuit court shall act as the depository for all fines
7 collected under this Section. The clerk may retain a service
8 charge of \$1 for each payment received under this Section. On a
9 monthly basis, the clerk shall transfer the moneys collected
10 under this Section to the State Treasurer for deposit into the
11 Internet Screening in Public Libraries Fund.

12 Section 30. Rules and sanctions. The State Librarian shall
13 adopt rules to implement and administer this Act. The head of
14 each administrative unit must annually attest in writing, under
15 penalty of perjury, that all public library locations within
16 the jurisdiction of the administrative unit are in compliance
17 with Section 15, as a condition of the receipt of any State
18 funds distributed through the State Librarian.

19 Section 35. Internet Screening in Public Library Fund. The
20 Internet Screening in Public Libraries Fund is created as a
21 special fund in the State treasury. Subject to appropriation,
22 the amounts in the Fund shall be used by the State Librarian to
23 implement and administer this Act.

24 Section 80. The State Finance Act is amended by adding
25 Section 5.663 as follows:

26 (30 ILCS 105/5.663 new)

27 Sec. 5.663. The Internet Screening in Public Libraries
28 Fund.

29 Section 90. The State Mandates Act is amended by adding
30 Section 8.30 as follows:

1 (30 ILCS 805/8.30 new)

2 Sec. 8.30. Exempt mandate. Notwithstanding Sections 6 and 8
3 of this Act, no reimbursement by the State is required for the
4 implementation of any mandate created by this amendatory Act of
5 the 94th General Assembly.