

2/15/01

NEW FEDERAL LAW DOES NOT ELIMINATE NEED FOR PENNSYLVANIA CHILD INTERNET PROTECTION LAW

Justification for state law

- Just as federal and state involvement in a multitude of public policy concerns ranging from drug control programs to the minimum wage greatly increases the effectiveness of those programs, by utilizing the personnel, resources and enforcement tools of two levels of government, a federal and state initiative to protect children using school/library computers will significantly increase the effectiveness of this program.
- H.B. 10 creates separate and distinct enforcement procedures which are unavailable under federal law. In addition to funding sanctions, federal agencies can file complaints for cease and desist orders or execute compliance agreements in order to compel compliance. However, the federal statute makes these remedies exclusive for compelling compliance. In other words, if the federal agency refuses or fails to act, there is no other remedy under federal law. The federal statute does not provide for the filing and/or approval of the actual Internet safety policy. By way of distinction, H.B. 10 (in addition to its funding sanction): (1) requires that public schools/libraries prepare and file acceptable use plans with the Secretary of Education that comply with the bill and that such filings include their choice of software program and on-line server; (2) requires that the Secretary approve acceptable use plans filed by libraries ~~(but not public schools)~~; (3) ~~creates a judicial remedy which enables the Secretary, district attorneys and aggrieved parents/guardians to enforce public school/library compliance in the courts.~~
- H.B. 10 offers public schools/libraries a much more comprehensive package of technical assistance to facilitate compliance than does the federal law. The federal law gives NT&IA, a federal agency, 18 months to initiate a procedure to evaluate whether current technology, including software filters, are adequate, to evaluate community Internet safety policies and to make recommendations. H.B. 10 requires the Secretary of Education and the Attorney General to review software programs and on-line servers and to provide public schools/libraries and the public with a list of software programs and on-line servers that meet the requirements of the bill. H.B. 10 also requires the Attorney General and the Secretary to consult with and assist public schools/libraries in implementing its provisions.
- The federal law and H.B. 10 have ~~radically~~ different funding sanctions to compel compliance with their provisions. The federal act disqualifies schools/libraries from receiving the statutorily mandated discount from telecommunications carriers for their Internet usage and requires reimbursement in case of violations, and it provides for the withholding of other specified federal assistance related to Internet access for failure to comply. H.B. 10 would ~~cut off state subsidy funding to libraries (but not public schools programs) that fail to comply with the bill's requirements. Thus, the state funding cutoff would withhold funds that could be used for a library's general operations, while the~~

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empower the education
secretary to cut off a portion
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federal funding cutoff only affects computer and Internet related financial assistance for libraries/schools.

- Although H.B. 10 has stricter filtering standards than the federal law in several significant respects, both measures are compatible since any blocking system which meets the requirements of H.B. 10 will also satisfy the blocking requirements of federal law. The two measures can work together in a harmonious fashion since both permit public schools/libraries to adopt standards that exceed their respective minimum statutory standards. Thus, a public school/library can satisfy the requirements of the federal law and H.B. 10 by adopting an Internet safety policy which meets or exceeds the strictest of the two. Federal and Pennsylvania firearms statutes follow this same principle.
- H.B. 10 imposes stricter standards than the federal law in several significant areas, including the following:
 - The federal law only applies to visual depictions, while H.B. 10 would cover words and sounds, as well as visual depictions.
 - The federal law does not require that schools/libraries have Internet safety policies that preclude adults from accessing material that is harmful to minors (although they must block adult/minor access to child pornography and obscene material), while H.B. 10 does require that public schools/libraries block such material.
 - The federal law enables schools/libraries to disable blocking devices for purposes of bona fide research and other lawful purposes, while H.B. 10 limits this disabling option to use by adults in libraries. In addition, H.B. 10, unlike the federal law, specifies that blocking devices cannot be disabled in order to permit access to obscene material or child pornography while federal law does not address this issue. H.B. 10 does not permit disabling for use in the schools or for use by minors, while federal law permits disabling for such purposes.

H.B. 2262 has a very simple and very important purpose.

It requires each school district and public library to adopt an acceptable use policy for the Internet which will prevent students, patrons and employees from accessing visual depictions of obscenity, child pornography or material that is harmful to minors. In addition, the bill will require school districts and public libraries to use software programs or to select on-line servers in order to block access to visual depictions of obscenity, child pornography or material that is harmful to minors. The bill incorporates the Crimes Code definition of those terms. In order to correct any overblocking by a filter or on-line server, the bill enables the appropriate library or school personnel to disable the device in order to permit access for bona fide research or other lawful purpose.

In November of 2000, I offered a very similar amendment for the House's consideration, which passed this body by a vote of 178 to 14. Because it passed in the waning days of the lame duck session, it was not taken up by the Senate. One year later, in 2001, the Congress of the United States adopted Internet filtering legislation for public schools and libraries that was very similar to the amendment that passed our House of Representatives in 2000. Because it was very likely that the Congressional law would be reviewed by the United States Supreme Court, I made a decision to postpone any further consideration of my legislation until the U.S. Supreme Court had an opportunity to decide the constitutionality of this measure. In June of

2003, the U.S. Supreme Court upheld the Internet filtering legislation by a 6 to 3 vote in the case of United States v. American Library Association. I made a few minor modifications in the wake of the high court decision, and the House Judiciary Committee made a few other changes as well.

In addition to safeguarding children by limiting access to unlawful pornography on library and school Internet sites, this bill will serve two other very important public purposes, which I would like to mention because they have received somewhat less public attention.

By making it more difficult to access pornography on library computers, the bill will discourage pedophiles and other sexual offenders from frequenting libraries for this purpose, which creates a clear and present danger for little children who use our libraries for innocent educational purposes. A recent case involving the Philadelphia Library illustrates this concern. A February article in the Philadelphia Inquirer reported that police arrested a man for attempted rape and attempted murder when he raped and 8-year-old girl in the bathroom of a Philadelphia Public Library branch. According to the article, the patron choked and sexually assaulted the little girl before jamming her unconscious body between the toilet and the wall. While the articles are silent on whether the rapist was accessing pornography at that particular time, they report that he had a record of accessing pornography at public libraries. The Inquirer article has this interesting quote, and I quote:

"A library employee who asked that her name not be used for fear of repercussions said McCutcheon was often disruptive in the library, yelling and using foul language when librarians told him he had used his 30-minute allotted time on the public computers. He looked mostly at pornography, she said, and officials banned him from the library only after he exposed himself to a 16-year-old library assistant."

End of quote. In summary, this bill sends the message that we do not want our libraries to be magnets for molesters.

One final purpose of this legislation is to protect patrons and library employees against the hostile atmosphere created by the display of sexually explicit material on library premises. In Minneapolis, Minnesota, twelve librarians filed a federal claim against the library for failure to control the display of such graphic material, and the Equal Employment Opportunities Commission found probable cause that federal law had been violated because the library had created a sexually hostile environment. An article published last year reported that the library settled the lawsuit for the sum of \$435,000. This bill will create an additional safeguard to protect against potential federal liability for creating a sexually hostile work environment, and it will create a much more intellectually congenial atmosphere for library workers and patrons, including children, who use our public libraries.

In conclusion, the overwhelming House support in favor of this measure four years' ago has been vindicated by a subsequent act of Congress and a subsequent decision of our United States Supreme Court.

I ask for an affirmative vote on this bill.

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FOR IMMEDIATE RELEASE

June 8, 2004

House Passes Ego1f's Internet Pornography Legislation

HARRISBURG -- The House has approved legislation sponsored by Rep. Allan Ego1f (R-Perry) designed to protect children from obscene material, child pornography and other Internet material that is harmful to minors in public schools and public libraries.

"Protecting children from pornography on the Internet is the foremost concern of communities according to a report from the National Issues Forum," Ego1f said. "This legislation simply requires that public schools and public libraries be required to have and enforce acceptable-use policies for Internet access."

Under Ego1f's legislation, the Secretary of Education would withhold a portion of state funding from any public school entity or public library receiving state funding if those institutions fail to comply with this legislation.

Under Ego1f's proposal school boards would adopt an acceptable-use policy for the Internet. At a minimum, the policy would contain provisions designed to prevent students and employees of schools from using any computer equipment and communications services owned or leased by the school entity for sending, receiving, viewing or downloading visual depictions of obscenity, child pornography or material that is harmful to minors.

Also under the bill, the governing body of every public library would establish an acceptable-use policy for the Internet. The policy would contain requirements designed to prevent library patrons, including those patrons under 18 years old and library employees from using the library's computer equipment and communications services for sending, receiving, viewing or downloading visual depictions of obscenity, child pornography or material that is harmful to minors.

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Under the measure library boards would establish appropriate measures to be taken against library patrons and employees who willfully violate the policy.

The governing body of the public library would take steps as it deems appropriate to implement and enforce the public library's policy. These steps would include the use of software programs designed to block access by library patrons and employees to visual depictions of obscenity, child pornography or material that is harmful to minors and the selection of certain on-line servers that block access by library patrons and employees to visual depictions of obscenity, child pornography or material that is harmful to minors.

The American Family Association Center for Law and Policy, the Pennsylvania Family Institute and the Filtering Facts Organization all support this legislation.

House Bill 2262 which passed 182-10 now goes to the state Senate.

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LJB.ag

From Ed Hussia

In light of the Judiciary Committee amendment and some interrogation during the course of House debate, the bill is highly vulnerable to an interpretation that school districts and libraries are not subject to the filing, approval or other requirements of the legislation if they are somehow deemed to be in compliance with the federal act. For this reason it might be advisable to provide Senator Piccola and Mike Sarfert with supplementary language that would even more strongly negate the potential risk of any such construction. In this regard, it might be advisable to add a sentence to Section 12 stating the following: "Compliance with the federal Children's Internet Protection Act shall not exempt any school district or public library from complying with the requirements of this act."

I am attaching a marked portion of the relevant debate and a revised copy of the amendment that you provided to the Senator with the addition of the new language.

If you would like to discuss this in more detail, please let me know.

Ale C. O.

Allan Egolf - Good Job- HB 2262

From: "James Miller" [REDACTED]
To: <aegolf@pahousegop.com>
Date: 6/15/2004 8:15 AM
Subject: Good Job- HB 2262

JAMES MILLER
[REDACTED]
ELIZABETHTOWN, PA 17022
[REDACTED]

Dear Representative Egolf,

Sir, Thank you for your efforts to suppress evil in our society! You are my kind of Representative. I hope this bill enjoys much support. Thank you again. Jim Miller (the Etown Boy)

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file c.o.

MB 2262

██████████
Greencastle, PA 17225
May 15, 2004

Dear Representative Egolf,

I wanted to write to thank you for taking time to meet with us to talk about library issues on May 11, 2004. I appreciate your support for libraries and want to ensure you that I share your desire to protect young children from inappropriate materials. As a Head Start teacher, I often see the effects of children being exposed to inappropriate materials and work to educate parents about this issue.

I also see the great need many of our low-income children have. A recent report shows that the vocabulary of a parent on welfare is similar to the vocabulary of the 5-year-old child in a college-educated family. Naturally the vocabulary of the child of welfare parents will be lower simply as a result of lack of exposure. Reading and story telling are two of the best ways to close the gap. I visit the library each week to get supplemental materials for my classroom. There is no other way I can provide the quality materials I need to help the children grow and become readers. Unfortunately as hard as I try to teach children to be respectful of books, there are times they almost love the books to death. It is a sad but true, the books children love the most are frequently the most expensive.

I will end by sharing an experience I had after leaving Harrisburg. I was still wearing my library pin when I stopped in at a local discount store and then a grocery store. In both places I meet employees who asked me about my pin and were surprised to learn about the funding cuts. I was most taken by the response of one of my past Head Start moms. She told me, "Kay, you can't let that happen." Due to learning differences, this woman would have great difficulty putting her thoughts down on paper, yet she understands the importance of libraries. She also does not understand my lack of importance! So for her and the others I met, I must say to you, "You can't let these cuts continue." We need our public libraries.

Thank you again for your time, I know it is very valuable.

Sincerely,



Deborah Kay Witmer
President Franklin County Library System