



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-1355/1
SWB&FFK:skw

2023 SENATE BILL 10

January 27, 2023 - Introduced by Senators JACQUE, QUINN and TOMCZYK, cosponsored by Representatives TITTL, SORTWELL, ALLEN, BINSFELD, GOEBEN, GREEN, GUNDRUM, MAGNAFICI, MURPHY, PENTERMAN, SCHRAA, TUSLER, WICHGERS and BODDEN. Referred to Committee on Mental Health, Substance Abuse Prevention, Children and Families.

- 1 **AN ACT** *to amend* 119.04 (1); and *to create* 43.75 and 118.073 of the statutes;
2 **relating to:** pupil or minor access to harmful material in public libraries and
3 to harmful material or offensive material in public schools.

Analysis by the Legislative Reference Bureau

This bill requires public libraries and public schools, including charter schools, to take steps to prevent pupils and minors from accessing harmful material on computers. Under the bill, "harmful material" is defined as 1) any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body that depicts nudity, sexually explicit conduct, sadomasochistic abuse, physical torture, or brutality and that is harmful to children; or 2) any book, pamphlet, magazine, printed matter however reproduced or recording that contains matter described in item 1, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexually explicit conduct, sadomasochistic abuse, physical torture, or brutality and that, taken as a whole, is harmful to children.

The bill requires any public library that provides a public access computer and any school board or independent charter school to do at least one of the following with respect to the public access computer or school computer to which pupils and minors have access: 1) equip the computer with software that will limit a pupil's or minor's ability to gain access to harmful material; 2) purchase Internet connectivity from an Internet service provider that provides filter services to limit access to harmful material; or 3) develop and implement a policy that establishes measures to keep

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pupils and minors from gaining access to harmful material. Under the bill, a public library or public school may allow a pupil or minor to access harmful material on the Internet if the parent or guardian of the pupil or minor consents to that access.

Beginning in the 2024-25 school year, the bill requires each school board and operator of an independent charter school to adopt a policy that specifies criteria for determining whether certain material is offensive material, which, under the bill, means the material is offensive to prevailing standards in the adult community with respect to what is suitable for children. Under the bill, if a public school pupil will view or otherwise have access to offensive material as part of classroom instruction, the school must provide the parent or guardian of the pupil with an outline of the curriculum and a summary of the instructional materials that contain the offensive material, information regarding how the parent or guardian may inspect the complete curriculum and instructional materials, and an explanation of the exemption available to parents and guardians under the bill. The bill requires each public school to make the complete curriculum and all instructional materials available for inspection by parents or guardians upon request. Under the bill, no pupil may be required to take any such instruction if the pupil's parent or guardian files with the teacher or school principal a written request that the pupil be exempted. Finally, the bill provides that no public school or public school employee may show or provide to any pupil offensive material for which the school did not follow the requirements under the bill regarding parental notice and opportunity to exempt pupil participation.

For further information see the local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 43.75 of the statutes is created to read:
- 2 **43.75 Responsibilities of public libraries with a public access**
- 3 **computer. (1)** In this section:
- 4 (a) "Harmful material" has the meaning given in s. 948.11 (1) (ar).
- 5 (b) "Public access computer" means a computer that is all of the following:
- 6 1. Located in an elementary or secondary public school or public library.
- 7 2. Frequently or regularly used directly by a minor.
- 8 3. Connected to a computer communication system.

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1 (2) A public library that provides a public access computer shall ensure that
2 minors do not have access to harmful material on the Internet through use of the
3 public access computer by doing at least one of the following:

4 (a) Equipping each public access computer with software that will limit a
5 minor's ability to gain access to harmful material.

6 (b) Purchasing Internet connectivity for each public access computer from an
7 Internet service provider that provides filter services to limit access to harmful
8 material.

9 (c) Developing and implementing by January 1, 2024, a policy that establishes
10 measures to restrict minors from gaining computer access to harmful material.

11 (3) Notwithstanding sub. (2), a public library that provides a public access
12 computer may allow a minor to access harmful material on the Internet if the parent
13 or guardian of the minor consents to that access.

14 **SECTION 2.** 118.073 of the statutes is created to read:

15 **118.073 Limiting pupil and minor access to harmful material. (1)** In
16 this section:

17 (a) "Harmful material" has the meaning given in s. 948.11 (1) (ar).

18 (b) "Offensive material" means any of the following that a school board or
19 operator of a charter school under s. 118.40 (2r) or (2x) determines is patently
20 offensive to prevailing standards in the adult community as a whole with respect to
21 what is suitable for children:

22 1. Any picture, photograph, drawing, sculpture, motion picture film or similar
23 visual representation or image of a person or portion of the human body that depicts
24 nudity, as defined in s. 948.11 (1) (d), sexually explicit conduct, sadomasochistic
25 abuse, physical torture or brutality.

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1 2. Any book, pamphlet, magazine, printed matter however reproduced or
2 recording that contains any matter enumerated in subd. 1., or explicit and detailed
3 verbal descriptions or narrative accounts of sexual excitement, as defined in s. 948.11
4 (1) (f), sexually explicit conduct, sadomasochistic abuse, physical torture or brutality.

5 **(2)** (a) A school board or the operator of a charter school under s. 118.40 (2r) or
6 (2x) shall ensure that pupils and minors do not have access to harmful material on
7 the Internet by doing at least one of the following:

8 1. Equipping each computer to which a pupil or minor has access with software
9 that will limit the pupil's or minor's ability to gain access to harmful material.

10 2. Purchasing Internet connectivity for each computer to which a pupil or minor
11 has access from an Internet service provider that provides filter services to limit
12 access to harmful material.

13 3. Developing and implementing by January 1, 2024, a policy that establishes
14 measures to restrict pupils and minors from gaining computer access to harmful
15 material.

16 (b) Notwithstanding par. (a), a school board or the operator of a charter school
17 under s. 118.40 (2r) or (2x) may allow a pupil or minor to access harmful material on
18 the Internet if the parent or guardian of the pupil or minor consents to that access.

19 **(3)** Beginning in the 2024-25 school year, each school board and operator of a
20 charter school under s. 118.40 (2r) or (2x) shall adopt a policy specifying criteria that
21 the school board or operator will use to determine whether an item described under
22 sub. (1) (b) 1. or 2. is an offensive material.

23 **(4)** Beginning in the 2024-25 school year, if a pupil will view or otherwise have
24 access to offensive material as part of classroom instruction in a public school,
25 including a charter school, the school board or the operator of the charter school

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1 under s. 118.40 (2r) or (2x) shall provide the parent or guardian of the pupil with an
2 outline of the curriculum and a summary of the instructional materials that contain
3 the offensive material, information regarding how the parent or guardian may
4 inspect the complete curriculum and instructional materials, and an explanation of
5 the exemption under sub. (5). The school board or operator shall make the complete
6 curriculum and all instructional materials available for inspection by a parent or
7 guardian upon request at any time, including prior to their use in the classroom.

8 (5) Beginning in the 2024-25 school year, no pupil may be required to take any
9 instruction subject to sub. (4) if the pupil's parent or guardian files with the teacher
10 or school principal a written request that the pupil be exempted.

11 (6) Beginning in the 2024-25 school year, no school board, operator of a charter
12 school under s. 118.40 (2r) or (2x), or employee of a school board or operator may show
13 or provide to any pupil offensive material for which the school board or operator did
14 not follow the requirements under subs. (4) and (5).

15 **SECTION 3.** 119.04 (1) of the statutes is amended to read:

16 119.04 (1) Subchapters IV, V, and VII of ch. 115, ch. 121, and ss. 66.0235 (3) (c),
17 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
18 115.345, 115.363, 115.364, 115.365 (3), 115.366, 115.367, 115.38 (2), 115.415, 115.445,
19 118.001 to 118.04, 118.045, 118.06, 118.07, ~~118.075~~, to 118.076, 118.10, 118.12,
20 118.125 to 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164,
21 118.18, 118.19, 118.196, 118.20, 118.223, 118.225, 118.24 (1), (2) (c) to (f), (6), (8), and
22 (10), 118.245, 118.25, 118.255, 118.258, 118.291, 118.292, 118.293, 118.2935, 118.30
23 to 118.43, 118.46, 118.50, 118.51, 118.52, 118.53, 118.55, 118.56, 120.12 (2m), (4m),
24 (5), and (15) to (27), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34),
25 (35), (37), (37m), and (38), 120.137, 120.14, 120.20, 120.21 (3), and 120.25 are

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SECTION 3

1 applicable to a 1st class city school district and board but not, unless explicitly
2 provided in this chapter or in the terms of a contract, to the commissioner or to any
3 school transferred to an opportunity schools and partnership program.

4 **SECTION 4. Effective dates.** This act takes effect on the day after publication,
5 except as follows:

6 (1) The treatment of ss. 43.75 and 118.073 (2) takes effect on the first day of the
7 6th month beginning after publication.

8 (END)