



# House of Representatives

General Assembly

**File No. 124**

February Session, 2008

Substitute House Bill No. 5790

*House of Representatives, March 20, 2008*

The Committee on General Law reported through REP. STONE of the 9th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING THE INTERNET AND PROTECTION OF CHILDREN.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2008*) For purposes of sections  
2 1 to 7, inclusive, of this act:

3 (1) "Child" means a person who is less than eighteen years of age.

4 (2) "Internet or any other computer network" means the computer  
5 network commonly known as the Internet, including web sites or  
6 domains, and any other local, regional or global computer network  
7 that is similar to or is a predecessor or successor of the Internet.

8 (3) "Internet access provider" means an entity that provides  
9 consumers with public access to the Internet.

10 (4) "Interactive computer service" means any information service,  
11 system, or access software provider that provides or enables computer  
12 access by multiple users to a computer server, including, but not  
13 limited to, a service or system that provides access to the Internet and

14 such systems operated or services offered by libraries or educational  
15 institutions.

16 (5) "Subscriber" means a consumer of an Internet access provider.

17 (6) "Order" means a legal process for the release of information,  
18 including, but not limited to, a subpoena, court order, search warrant,  
19 or summons.

20 Sec. 2. (NEW) (*Effective October 1, 2008*) (a) If an Internet access  
21 provider knows or has reason to know from registration data in its  
22 possession that a subscriber currently resides within this state, the  
23 provider shall make available to the subscriber a product or service  
24 which enables the subscriber to control a child's use of the Internet.  
25 Such product or service shall, in a commercially reasonable manner,  
26 enable the subscriber to:

27 (1) Block a child's access to specific web sites or domains;

28 (2) Restrict a child's access exclusively to specific web sites or  
29 domains approved by the subscriber; and

30 (3) Allow the subscriber to monitor a child's use of the Internet  
31 service by providing a report to the subscriber of the specific web sites  
32 or domains that the child has visited or has attempted to visit but  
33 could not access because the web sites or domains were blocked or  
34 restricted by the subscriber.

35 (b) If a product or service described in this subsection is reasonably  
36 and commercially available for the technology utilized by the  
37 subscriber to access the Internet service, the provider of the Internet  
38 service:

39 (1) Shall provide to the subscriber, at or near the time of  
40 subscription, notice of the availability of such product or service; and

41 (2) May make such product or service available to the subscriber  
42 either directly or through a third-party vendor and may charge for

43 such product or service.

44 Sec. 3. (NEW) (*Effective October 1, 2008*) (a) The Commissioner of  
45 Education shall prepare model curricula for educating children  
46 regarding online safety, taking into consideration the curricula on such  
47 subject developed by the other states, as well as other relevant  
48 materials suggested by education experts, child psychologists or  
49 technology companies working on online child safety issues.

50 (b) Each local school district shall incorporate into its curriculum a  
51 component on Internet safety to be taught at least once to students in  
52 grade three or above.

53 (c) The Commissioner of Education shall provide to each school  
54 district educational materials for parents regarding child online safety.

55 Sec. 4. (NEW) (*Effective October 1, 2008*) (a) An interactive computer  
56 service, upon the request of a law enforcement agency for an  
57 investigation of a possible sex offense involving a child, as defined in  
58 section 1 of this act, shall take reasonable steps to preserve records and  
59 other evidence in its possession pending the issuance of an order or  
60 other legal process. Such service shall comply with the request as soon  
61 as possible following receipt.

62 (b) Records referred to in subsection (a) of this section shall be  
63 retained for a period of ninety days, which shall be extended for an  
64 additional ninety-day period upon a further request of the law  
65 enforcement agency within the initial ninety-day period.

66 (c) An interactive computer service shall, within fifteen business  
67 days after receiving an order, as defined in section 1 of this act, relating  
68 to an investigation of a possible sex offense involving a child, provide  
69 information identified in 18 USC Section 2703 that are in its possession,  
70 except that if the interactive computer service demonstrates to the  
71 requesting law enforcement agency that, for bona fide technical or  
72 operational reasons, it cannot comply with the order within fifteen  
73 business days of the request, it shall make every reasonable effort to

74 comply with the request as soon as reasonably possible.

75 (d) In connection with any criminal investigation of a possible sex  
76 offense involving a child that involves immediate danger of death or  
77 serious bodily harm, a law enforcement agency may issue a request,  
78 without an order, to a designated recipient of the interactive computer  
79 service to disclose, consistent with 18 USC Sections 2702(b)(8) and  
80 2702(c)(4), the information identified in this section. The interactive  
81 computer service shall communicate with the requesting agency to  
82 discuss the nature of the request and to coordinate an appropriate  
83 response without delay.

84 (e) The provisions of this section shall be interpreted in a manner  
85 consistent with the requirements of federal law that apply to providers  
86 of an electronic communications service, including, but not limited to,  
87 18 USC Section 2701, et seq. and 42 USC Section 13032.

88 Sec. 5. (NEW) (*Effective October 1, 2008*) An interactive computer  
89 service doing business in this state that obtains knowledge of facts or  
90 circumstances from which a violation of any law prohibiting child  
91 pornography is apparent, shall make a report, as soon as reasonably  
92 possible, of such facts or circumstances to the Cyber Tip Line at the  
93 National Center for Missing and Exploited Children, consistent with  
94 the requirements of 42 USC Section 13032.

95 Sec. 6. (NEW) (*Effective October 1, 2008*) (a) A person commits  
96 Internet sexual exploitation of a child if such person, who is at least  
97 four years older than a child who is under fifteen years of age,  
98 knowingly requests or encourages the child through communication  
99 via a computer network or system to: (1) Expose or touch the child's  
100 own or another person's intimate parts while communicating with the  
101 person via a computer network or system; or (2) observe the person's  
102 intimate parts while communicating with the person via a computer  
103 network or system.

104 (b) It shall not be an affirmative defense to this section that the child  
105 was actually a law enforcement officer posing as a child under fifteen

106 years of age.

107 (c) Internet sexual exploitation of a child is a class C felony.

108 Sec. 7. (NEW) (Effective October 1, 2008) (a) A person more than four  
109 years older than a child under fifteen years of age commits Internet  
110 luring of a child if the person knowingly communicates a statement  
111 over a computer or computer network to such child, describing sexual  
112 conduct, and, in connection with the communication, makes a  
113 statement persuading or inviting the child to meet the person for any  
114 purpose.

115 (b) It shall not be an affirmative defense to this section that: (1) A  
116 meeting did not occur; or (2) the child was actually a law enforcement  
117 officer posing as a child under fifteen years of age.

118 (c) Internet luring of a child is a class C felony, except that luring of  
119 a child is a class B felony if committed with the intent to meet the child  
120 for the purpose of engaging in sexual exploitation or sexual contact.

121 (d) For purposes of this section, "in connection with" means  
122 communications that further, advance, promote or have a continuity of  
123 purpose and may occur before, during or after the invitation to meet.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2008	New section
Sec. 2	October 1, 2008	New section
Sec. 3	October 1, 2008	New section
Sec. 4	October 1, 2008	New section
Sec. 5	October 1, 2008	New section
Sec. 6	October 1, 2008	New section
Sec. 7	October 1, 2008	New section

**GL** Joint Favorable Subst.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Education, Dept.	GF - Cost	20,000 - 30,000	Minimal
Judicial Dept.	GF - Revenue Gain	Minimal	Minimal
Judicial Department (Probation); Correction, Dept.	GF - Cost	Potential	Potential

Note: GF=General Fund

**Municipal Impact:**

Municipalities	Effect	FY 09 \$	FY 10 \$
All Municipalities	STATE MANDATE - Cost	Minimal	Minimal

**Explanation**

**Online Safety Education**

The bill results in a cost to the State Department of Education of approximately \$20,000 to \$30,000 in FY 09 due to costs associated with the development of Internet safety curricula. The department would need to develop grade level appropriate curricula, provide adequate support to local and regional school districts in utilizing the curricula and distribute the curricula either through direct mailings or electronically. There would be minimal costs in the out years due to the need of keeping the curricula updated as circumstances necessitate.

The bill results in a minimal cost to local and regional school districts as it requires a component of Internet safety to be taught at least once to students in grade three or above. These costs may include any professional development or training needs and the printing of material to be provided to students. Many districts already provide such content and the bill would have no fiscal impact upon them.

### **Criminal Penalties**

The bill establishes two new crimes, “Internet sexual exploitation of a child,” and, “Internet luring of a child.” To the extent that offenders are prosecuted criminally and subsequently convicted or plead guilty, the state could incur a cost associated with incarceration and/or probation supervision in the community. On average, it costs the state \$3,736 to supervise an offender on probation in the community as compared to \$44,165 to incarcerate the offender. Any revenue gain from criminal fines imposed is anticipated to be minimal.

### ***The Out Years***

The annualized ongoing costs identified above would continue into the future subject to inflation. The annualized ongoing revenue from criminal fines would remain constant into the future since these fine amounts are set by statute.

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**OLR Bill Analysis**

**sHB 5790**

***AN ACT CONCERNING THE INTERNET AND PROTECTION OF CHILDREN.***

**SUMMARY:**

The bill creates two new crimes, Internet sexual exploitation of a child and Internet luring of a child.

The bill establishes provisions requiring interactive computer services to (1) take reasonable steps to preserve records requested by law enforcement agencies investigating the crimes and (2) establish policies about requested record retention and response times. The bill states that it must be interpreted in a way that is consistent with related federal law.

The bill requires interactive service providers to report to the Cyber Tip Line whenever they learn of facts or circumstances that make it apparent a violation of the laws against child pornography has occurred.

It requires Internet access providers to make available to subscribers software that can be used to block a child's access to specific web sites or domains.

It requires the education commissioner to develop curricula on Internet safety and requires local school districts to teach a component on Internet safety at least once to students in grade three or above.

EFFECTIVE DATE: October 1, 2008

**INTERNET SEXUAL EXPLOITATION OF A CHILD**

Under the bill, a person commits Internet sexual exploitation of a

child if the person is at least four years older than a child under age 15 and knowingly requests or encourages the child through communication via a computer network or system to (1) expose or touch the child's own or another's intimate parts while communicating with the person via a computer network or system or (2) observe the person's intimate parts while communicating with the person via a computer network or system. The bill makes the Internet sexual exploitation of a child a class C felony, which is punishable by imprisonment for one to 10 years, a fine of up to \$10,000, or both. The bill states that it is not an affirmative defense that the child was actually a law enforcement officer posing as a child under age 15.

### **INTERNET LURING OF A CHILD**

Under the bill, a person more than four years older than a child under 15 commits Internet luring of a child if the person knowingly communicates over a computer or computer network to the child, describes sexual conduct, and, in connection with the communication, makes a statement to persuade or invite the child to meet the person for any reason. For this purpose, "in connection with" means communications that further, advance, promote, or have a continuity of purpose and may occur before, during, or after the invitation. The bill states that it is not an affirmative defense that the child was actually a law enforcement officer posing as a child under age 15.

The bill makes Internet luring of a child a class C felony, except that it is a class B felony if committed with the intent to meet the child for the purpose of engaging in sexual exploitation or sexual contact. A class B felony is punishable by imprisonment for one to 20 years, a fine of up to \$15,000, or both.

### **CRIMINAL INVESTIGATIONS**

The bill requires:

1. an interactive computer service, when requested by a law enforcement agency investigating a possible sex offense under the bill involving a child under age 15, to take reasonable steps

to preserve records and other evidence in its possession pending the issuance of an order or other legal process and

2. the computer service to comply with the request as soon as possible.

The bill defines “order” for this purpose to include any legal process for the release of information, including a subpoena, court order, search warrant, or summons. An “interactive computer service” is any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet and the systems operated or offered by libraries or educational institutions.

### ***Record Retention***

The bill requires a service to keep requested records for 90 days and, if requested by the law enforcement agency within the initial 90-day period, for an additional 90 days.

### ***Providing Requested Information***

The bill requires an interactive computer service, within 15 business days after receiving an appropriate order relating to an investigation of a possible sex offense involving a child under age 18, to provide information identified in federal law on the disclosure of electronic communications (see BACKGROUND). If the service demonstrates that, for bona fide technical or operational reasons, it cannot comply within 15 business days, it must make every reasonable effort to comply with the request as soon as reasonably possible.

### ***Information Requests Related to Immediate Danger***

In connection with any criminal investigation of a possible sex offense involving a child under the bill that involves immediate danger of death or serious bodily harm, the bill allows a law enforcement agency to request the information, without a compulsory legal order, to an interactive computer service in a manner consistent with related federal law. The bill requires the service to communicate with the law enforcement agency to discuss the nature of the request and to

coordinate an appropriate response immediately and without delay.

### ***Relationship to Federal Law***

The bill states that it must be interpreted in a way that is consistent with federal law applying to electronic communications providers, including the laws on disclosure of electronic communications and subscriber information and on the mandatory reporting of child pornography.

### **DUTY TO REPORT**

The bill requires interactive service providers that learn of facts or circumstances from which a violation of the law prohibiting child pornography is apparent to report, as soon as reasonably possible, the facts or circumstances to the Cyber Tip Line at the National Center for Missing and Exploited Children, in accordance with federal law (see BACKGROUND).

### **WEB SITE RESTRICTION SOFTWARE**

The bill requires an Internet access provider, if it knows or has reason to know from its registration data that a subscriber resides in the state, to make available a product or service enabling a subscriber to control a child's (someone younger than 18) use of the Internet. The product or service must, in a commercially reasonable manner, enable the subscriber to:

1. block a child's access to specific web sites or domains,
2. restrict a child's access exclusively to specific subscriber-approved web sites or domains, and
3. allow the subscriber to monitor a child's use of the Internet service by providing a report of the specific web sites or domains that the child has visited or attempted to visit but could not because the subscriber blocked or restricted the web sites or domains.

The bill requires, if a product or service described above is

reasonably and commercially available, the Internet service provider to provide, at or near the time of subscription, a notice of its availability, and allows a provider to make it available either directly or through a third-party vendor and to charge for it.

### **INTERNET SAFETY EDUCATION**

The bill requires the education commissioner to prepare model curricula to teach children about Internet safety, taking into consideration the curricula developed by other states and relevant material suggested by education experts, child psychologists, or technology companies working on online child safety issues.

It requires each local school district to incorporate a component on Internet safety into its curriculum to be taught at least once to students in grade three or above.

Finally, it requires the education commissioner to provide each school district with educational material for parents about child online safety.

### **BACKGROUND**

#### ***Disclosure of Electronic Communications***

Federal law allows a government agency to require an electronic communications provider to disclose a record or other subscriber-related information only by following certain procedures and allows the agency to ask for, and the communications provider to provide only: (1) name; (2) address; (3) local and long distance telephone connection records or records of session times and durations; (4) length of service (including start date) and types of services used; (5) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network addresses; and (6) means and source of payment for service, including credit card or bank account number (18 USC § 2703).

Federal law allows providers of electronic communications to divulge the contents of communications to a government agency if the provider reasonably believes that an emergency involving immediate

danger of death or serious physical injury requires disclosure without delay (18 USC § 2702 (b)(8)). It also allows these providers to divulge a record or other subscriber-related information to a government agency if if reasonably believes that an emergency involving immediate danger of death or serious physical injury justifies the disclosure (18 USC § 2702 (c)(4)).

***Reporting of Child Pornography by Electronic Communication Providers to the Cyber Tip Line***

Federal law requires electronic communication service and remote computing services to report whenever they learn of facts or circumstances of a violation of the law involving child pornography. The reports must be made to the Cyber Tip Line, which must forward them to a law enforcement agency or other agencies designated by the U.S. attorney general (42 USC § 13032).

**COMMITTEE ACTION**

General Law Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/06/2008)