

First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 19-0313.01 Michael Dohr x4347

SENATE BILL 19-048

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SENATE SPONSORSHIP

Holbert,

HOUSE SPONSORSHIP

Ransom,

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Senate Committees  
Judiciary

House Committees

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A BILL FOR AN ACT

101 CONCERNING PROTECTING PUBLIC SCHOOL STUDENTS FROM  
102 ELECTRONICALLY ACCESSING HARMFUL MATERIAL.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill requires an entity that provides electronically accessible educational materials to a public school or school district to equip the materials with computer software or a filter service that prohibits access to material that is harmful to children or obscene. A parent or legal guardian may bring a civil action against an entity that provides electronically accessible educational materials and that violates this

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

requirement if the parent's child viewed material that is harmful to a child or obscene through the material provided by the entity. The parent or legal guardian is entitled to injunctive relief, the greater of a fine in the range of \$1,000 to \$5,000 for each violation or actual damages incurred as a result of each violation, exemplary damages, and reasonable attorney fees and costs. It is an affirmative defense if the entity equips the materials with computer software or a filter service that prohibits access to material that is harmful to children or obscene.

The bill requires each school district or public school to ensure that any database provided by an entity accessible to students is equipped with computer software or a filter service that prohibits access to material that is harmful to children or obscene by that entity, and each computer or other electronic device that a student may have access to is equipped with computer software or a filter service that prohibits access to material that is harmful to children or obscene.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 17 to title  
3 22 as follows:

4 **ARTICLE 17**

5 **Material Harmful to Children**

6 **22-17-101. Definitions.** AS USED IN THIS ARTICLE 17, UNLESS THE  
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "CHILD" MEANS A PERSON UNDER EIGHTEEN YEARS OF AGE.

9 (2) "HARMFUL TO CHILDREN" MEANS THAT QUALITY OF ANY  
10 DESCRIPTION OR REPRESENTATION, IN WHATEVER FORM, OF SEXUALLY  
11 EXPLICIT NUDITY, SEXUAL CONDUCT, SEXUAL EXCITEMENT, OR  
12 SADOMASOCHISTIC ABUSE, WHEN IT:

13 (a) TAKEN AS A WHOLE, PREDOMINANTLY APPEALS TO THE  
14 PRURIENT INTEREST IN SEX OF CHILDREN;

15 (b) IS PATENTLY OFFENSIVE TO PREVAILING STANDARDS IN THE  
16 ADULT COMMUNITY AS A WHOLE WITH RESPECT TO WHAT IS SUITABLE  
17 MATERIAL FOR CHILDREN; AND

1 (c) IS, WHEN TAKEN AS A WHOLE, LACKING IN SERIOUS LITERARY,  
2 ARTISTIC, POLITICAL, AND SCIENTIFIC VALUE FOR CHILDREN.

3 (3) "OBSCENE" MEANS MATERIAL OR A PERFORMANCE THAT:

4 (a) THE AVERAGE PERSON, APPLYING CONTEMPORARY COMMUNITY  
5 STANDARDS, WOULD FIND THAT TAKEN AS A WHOLE APPEALS TO THE  
6 PRURIENT INTEREST IN SEX;

7 (b) DEPICTS OR DESCRIBES:

8 (I) PATENTLY OFFENSIVE REPRESENTATIONS OR DESCRIPTIONS OF  
9 ULTIMATE SEX ACTS, NORMAL OR PERVERTED, ACTUAL OR SIMULATED,  
10 INCLUDING SEXUAL INTERCOURSE, SODOMY, AND SEXUAL BESTIALITY; OR

11 (II) PATENTLY OFFENSIVE REPRESENTATIONS OR DESCRIPTIONS OF  
12 MASTURBATION, EXCRETORY FUNCTIONS, SADISM, MASOCHISM, LEWD  
13 EXHIBITION OF THE GENITALS, THE MALE OR FEMALE GENITALS IN A STATE  
14 OF SEXUAL STIMULATION OR AROUSAL, OR COVERED MALE GENITALS IN A  
15 DISCERNIBLY TURGID STATE; AND

16 (c) TAKEN AS A WHOLE, LACKS SERIOUS LITERARY, ARTISTIC,  
17 POLITICAL, OR SCIENTIFIC VALUE.

18 (4) "SADOMASOCHISTIC ABUSE" MEANS ACTUAL OR EXPLICITLY  
19 SIMULATED FLAGELLATION OR TORTURE BY OR UPON A PERSON WHO IS  
20 NUDE OR CLAD IN UNDERGARMENTS, A MASK OR BIZARRE COSTUME, OR  
21 THE CONDITION OF BEING FETTERED, BOUND, OR OTHERWISE PHYSICALLY  
22 RESTRAINED ON THE PART OF ONE SO CLOTHED.

23 (5) "SEXUAL CONDUCT" MEANS ACTUAL OR EXPLICITLY  
24 SIMULATED ACTS OF MASTURBATION, HOMOSEXUALITY, SEXUAL  
25 INTERCOURSE, SODOMY, OR PHYSICAL CONTACT IN AN ACT OF APPARENT  
26 SEXUAL STIMULATION OR GRATIFICATION WITH A PERSON'S CLOTHED OR  
27 UNCLOTHED GENITALS, PUBIC AREA, BUTTOCKS, OR, IF THE PERSON IS

1 FEMALE, BREAST.

2 (6) "SEXUAL EXCITEMENT" MEANS THE CONDITION OF HUMAN  
3 MALE OR FEMALE GENITALS WHEN IN A STATE OF SEXUAL STIMULATION OR  
4 AROUSAL.

5 (7) "SEXUALLY EXPLICIT NUDITY" MEANS A STATE OF UNDRESS SO  
6 AS TO EXPOSE THE HUMAN MALE OR FEMALE GENITALS, PUBIC AREA, OR  
7 BUTTOCKS WITH LESS THAN A FULL OPAQUE COVERING, OR THE SHOWING  
8 OF THE FEMALE BREAST WITH LESS THAN A FULLY OPAQUE COVERING OF  
9 ANY PORTION THEREOF BELOW THE TOP OF THE AREOLA, OR THE  
10 DEPICTION OF COVERED OR UNCOVERED MALE GENITALS IN A DISCERNIBLY  
11 TURGID STATE.

12 **22-17-102. Prohibit student access to harmful material.** (1) AN  
13 ENTITY THAT PROVIDES A PUBLIC SCHOOL OR SCHOOL DISTRICT WITH  
14 ELECTRONICALLY ACCESSIBLE EDUCATIONAL MATERIALS SHALL EQUIP THE  
15 MATERIALS WITH COMPUTER SOFTWARE OR A FILTER SERVICE THAT  
16 PROHIBITS ACCESS TO MATERIAL THAT IS HARMFUL TO CHILDREN OR  
17 OBSCENE.

18 (2) A SCHOOL THAT PROVIDES ITS STUDENTS ACCESS TO ANY  
19 ELECTRONIC DATABASE SHALL ENSURE THAT THE DATABASE IS EQUIPPED  
20 BY THE DATABASE PROVIDER WITH COMPUTER SOFTWARE OR A FILTER  
21 SERVICE THAT PROHIBITS ACCESS TO MATERIAL THAT IS HARMFUL TO  
22 CHILDREN OR OBSCENE.

23 (3) EACH SCHOOL DISTRICT OR PUBLIC SCHOOL SHALL EQUIP EACH  
24 COMPUTER OR OTHER ELECTRONIC DEVICE THAT IS CAPABLE OF ACCESSING  
25 THE INTERNET OR AN ELECTRONIC DATABASE TO WHICH A STUDENT MAY  
26 HAVE ACCESS WITH COMPUTER SOFTWARE OR A FILTER SERVICE THAT  
27 PROHIBITS ACCESS TO MATERIAL THAT IS HARMFUL TO CHILDREN OR

1 OBSCENE.

2 **22-17-103. Civil liability.** (1) A PARENT OR LEGAL GUARDIAN  
3 MAY BRING A CIVIL ACTION AGAINST AN ENTITY THAT VIOLATES THE  
4 PROVISIONS OF SECTION 22-17-102 (1) IF THE PARENT'S OR LEGAL  
5 GUARDIAN'S CHILD VIEWED MATERIAL THAT IS HARMFUL TO CHILDREN  
6 THROUGH THE ELECTRONICALLY ACCESSIBLE EDUCATIONAL MATERIALS  
7 PROVIDED BY THE ENTITY.

8 (2) IT IS AN AFFIRMATIVE DEFENSE TO A CIVIL ACTION BROUGHT  
9 PURSUANT TO SUBSECTION (1) OF THIS SECTION IF THE ENTITY  
10 ESTABLISHES THAT IT EQUIPPED THE MATERIALS OR DATABASE WITH  
11 COMPUTER SOFTWARE OR A FILTER SERVICE THAT PROHIBITS ACCESS TO  
12 MATERIAL THAT IS HARMFUL TO CHILDREN OR OBSCENE.

13 (3) THE PARENT OR LEGAL GUARDIAN IS ENTITLED TO INJUNCTIVE  
14 RELIEF, THE GREATER OF ONE THOUSAND TO FIVE THOUSAND DOLLARS FOR  
15 EACH VIOLATION OF SECTION 22-17-102 (1) OR ACTUAL DAMAGES  
16 INCURRED AS A RESULT OF EACH VIOLATION OF SECTION 22-17-102 (1),  
17 EXEMPLARY DAMAGES, AND REASONABLE ATTORNEY FEES AND COSTS.

18 **SECTION 2. Act subject to petition - effective date.** This act  
19 takes effect at 12:01 a.m. on the day following the expiration of the  
20 ninety-day period after final adjournment of the general assembly (August  
21 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a  
22 referendum petition is filed pursuant to section 1 (3) of article V of the  
23 state constitution against this act or an item, section, or part of this act  
24 within such period, then the act, item, section, or part will not take effect  
25 unless approved by the people at the general election to be held in  
26 November 2020 and, in such case, will take effect on the date of the  
27 official declaration of the vote thereon by the governor.