

**McCain-Istook-Santorum-Pickering Internet Filter Amendment to the 2001 Labor-  
HHS Appropriations Bill**

**Discussion Draft – July 28, 2000**

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Children’s Internet Protection Act.”.

**SEC. 2. DISCLAIMER WITH RESPECT TO TECHNOLOGY.**

Nothing in this Act or the amendments made by this Act prohibits a local educational agency, elementary or secondary school, or a library from blocking access on computers owned or operated by that agency, school, or library to any content other than content described in this Act or the amendments made by this Act on the Internet.

**TITLE I—FEDERAL FUNDING FOR EDUCATIONAL  
INSTITUTION COMPUTERS.**

**SEC. 101. LIMITATION ON USE OF APPROPRIATED FUNDS FOR SCHOOLS.**

(b) INTERNET FILTERING.—

(5) GENERAL RULE.—No funds made available under title III of the Elementary and Secondary Education Act of 1965 to a local educational agency, elementary or secondary school may be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet, unless the school, school board, or other authority with responsibility for administration of the school—

(A) has selected a technology for its computers with Internet access in order to filter or block Internet access through such computers to—

- (i) material that is obscene;
- (ii) child pornography; and
- (iii) material that is harmful to minors; and

(B) is enforcing a policy to ensure the operation of the technology during any use of such computers by minors.

(6) NONCOMPLIANCE.—

(A) USE OF GENERAL EDUCATION PROVISIONS ACT REMEDIES.—Whenever the Secretary has reason to believe that any recipient of funds under title III of the Elementary and Secondary Education Act of 1965 is failing to comply substantially with the requirements of this subsection, the Secretary may—

- (i) withhold further payments under that program or activity,
- (ii) issue a complaint to compel compliance through a cease and desist order, or
- (iii) enter into a compliance agreement with a recipient to bring it into compliance,

in same manner as the Secretary of education is authorized to take such actions under sections 455, 456, and 457, respectively, of the General Education Provisions Act (20 U.S.C. 1234d).

(B) RECOVERY OF FUNDS PROHIBITED.—The actions authorized by subparagraph (A) are the exclusive remedies available with respect to a

violation of this subsection, and the Secretary shall not seek a recovery of funds from the recipient.

(7) **DISABLING DURING ADULT USE.**—An administrator, supervisor, or person authorized by the responsible authority under paragraph (1) may disable the technology described in paragraph (1) during use by an individual who is not a minor, to enable unfiltered access for bona fide research or other lawful purposes.

(8) **DEFINITIONS.**—In this Act:

(A) **LOCAL EDUCATIONAL AGENCY; SCHOOL.**—The terms “local educational agency” and “elementary or secondary school” have the meanings provided such terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(B) **COMPUTER.**—The term “computer” includes any hardware, software, or other technology attached or connected to , installed in, or otherwise used in connection with a computer.

(C) **ACCESS TO INTERNET.**—A computer shall be considered to have access to the Internet if such computer is equipped with a modem or is connected to a computer network which has access to the Internet.

(D) **ACQUISITION OR OPERATION.**—A elementary or secondary school shall be considered to have received funds under title III of the Elementary and Secondary Education Act of 1965 for the acquisition or operation of any computer if such funds are used in any manner, directly or indirectly—

(i) to purchase, lease, or otherwise acquire or obtain the use of such computer, or

(ii) to obtain services, supplies, software, or other actions or materials to support, or in connection with, the operation of such computer.

(E) MINOR.—The term “minor” has the meaning given such term in section 2256 of title 18, United States Code.

(F) CHILD PORNOGRAPHY.—The term “child pornography” has the meaning given such term in section 2256 of title 18, United States Code.

(G) MATERIAL THAT IS HARMFUL TO MINORS.—The term “material that is harmful to minors” means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that—

(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

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

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

(H) SEXUAL ACT; SEXUAL CONTACT.—The terms “sexual act” and “sexual contact” have the meanings given such terms in section 2246 of title 18, United States Code.

(I) SECRETARY.—The term “Secretary” means the Secretary of Education.

(9) EFFECTIVE DATE.—This subsection shall take effect 120 days after the date of the enactment of this Act.

(c) SEVERABILITY.—If any provision of this section is held invalid, the remainder of such section and this Act shall not be affected thereby.

**SEC. 102. LIMITATION ON USE OF APPROPRIATED FUNDS FOR LIBRARIES.**

(b) AMENDMENT.—Section 224 of the Museum and Library Services Act (20 U.S.C. 9134(b)) is amended—

(5) in subsection (b)—

(A) by redesignating paragraph (6) as paragraph (7); and

(B) by inserting after paragraph (5) the following new paragraph:

“(6) provide assurances that the State will comply with subsection (f); and”;

and

(6) by adding at the end the following new subsection:

(c) INTERNET FILTERING.—

(1) GENERAL RULE.—No funds made available under this Act will be made available to a library described in section 213(2)(A) or (B) for the purchase of computers used to access the Internet, or for paying for the direct costs associated with accessing the Internet, unless such library has in place, on such computers that are accessible by minors, and during use by such minors, technology which filters or blocks—

(A) material that is obscene;

(B) child pornography; and

- (C) material that is harmful to minors.
- (2) **DISABLING DURING ADULT USE.**—An administrator, supervisor, or other authority may disable the technology described in paragraph (1) during use by an adult to enable unfiltered access for bona fide research or other lawful purposes.
- (3) **OTHER MATERIALS.**—Nothing in this subsection shall be construed to prohibit a library from filtering or blocking materials other than those referred to in subparagraph (A), (B), or (C) of paragraph (1).
- (4) **DEFINITIONS.**—For purposes of this section:
- (A) **MATERIAL THAT IS HARMFUL TO MINORS.**—The term 'material that is harmful to minors' means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that—
- (i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;
  - (ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
  - (iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.
- (B) **SEXUAL ACT, SEXUAL CONTACT.**—The terms 'sexual act' and 'sexual contact' have the meanings given such terms in section 2246 of title 18, United States Code.

(C) CHILD PORNOGRAPHY.—The term 'child pornography' has the meaning given such term in section 2256 of title 18, United States Code.

(D) MINOR.—The term 'minor' has the meaning given such term in section 2256 of title 18, United States Code.

(5) SEVERABILITY.—If any provision of this subsection is held invalid, the remainder of this subsection shall not be affected thereby."

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect 120 days after the date of the enactment of this Act.

## **TITLE II—UNIVERSAL SERVICE DISCOUNTS.**

### **SEC. 201. REQUIREMENT FOR SCHOOLS AND LIBRARIES TO IMPLEMENT FILTERING OR BLOCKING TECHNOLOGY FOR COMPUTERS WITH INTERNET ACCESS AS A CONDITION OF UNIVERSAL SERVICE DISCOUNTS.**

(c) SCHOOLS.—Section 254(h) of the Communications Act of 1934 (47 U.S.C.

254(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (7); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5) REQUIREMENTS FOR CERTAIN SCHOOLS WITH COMPUTERS HAVING INTERNET ACCESS.—

"(A) INTERNET FILTERING.—

"(i) IN GENERAL.—Except as provided in clause (ii), an elementary or secondary school having computers with Internet access may not

receive services at discount rates under paragraph (1)(B) unless the school, school board, or other authority with responsibility for administration of the school—

"(I) submits to the Commission the certifications described in subparagraphs (B) and (C); and

"(II) ensures the use of such computers in accordance with the certification.

"(ii) APPLICABILITY.—The prohibition in paragraph (1) shall not apply with respect to a school that receives services at discount rates under paragraph (1)(B) only for purposes other than the provision of Internet access, Internet service, or internal connections.

"(iii) PUBLIC NOTICE; HEARING.—An elementary or secondary school described in clause (i), or the school board or other authority with responsibility for administration of the school, shall provide reasonable public notice and hold at least 1 public hearing or meeting to address the proposed Internet use policy. In the case of an elementary or secondary school other than an elementary or secondary school as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), the notice and hearing required by this clause may be limited to those members of the public with a relationship to the school.

"(B) CERTIFICATION WITH RESPECT TO MINORS.—A certification under this subparagraph is a certification that the school, school board, or other authority with responsibility for administration of the school—

"(i) has selected a technology for its computers with Internet access in order to filter or block Internet access through such computers to—

"(I) material that is obscene;

"(II) child pornography; and

"(III) material that is harmful to minors;

"(ii) is monitoring the online activities of minors either through supervisory or technological means; and

"(iii) is enforcing a policy to ensure the operation of the technology and monitoring practices during any use of such computers by minors.

"(C) CERTIFICATION WITH RESPECT TO ADULTS.—A certification under this paragraph is a certification that the school, school board, or other authority with responsibility for administration of the school—

"(i) has selected a technology for its computers with Internet access in order to filter or block internet access through such computers to—

"(I) material that is obscene; and

"(II) child pornography; and

"(ii) is enforcing a policy to ensure the operation of the technology during any use of such computers.

"(D) DISABLING DURING ADULT USE.—An administrator, supervisor, or other person authorized by the certifying authority under subparagraph (A)(i)

may disable the technology during use by an adult, to enable unfiltered access for bona fide research or other lawful purpose.

"(E) TIMING OF IMPLEMENTATION.—

"(i) IN GENERAL.—Subject to clause (ii) in the case of any school covered by this paragraph as of the effective date of this paragraph under section 201(h) of the Children's Internet Protection Act, the certification under subparagraph (B) shall be made as part of the application process for the next program funding year following enactment, and for each subsequent year thereafter.

"(ii) PROCESS.—

"(I) SCHOOLS WITH FILTERING INTERNET TECHNOLOGY INSTALLED.—A school covered by clause (i) which has already purchased and installed Internet filtering technology shall certify to its compliance with subparagraph (B) during each annual program application cycle.

"(II) SCHOOLS WITHOUT INTERNET FILTERING TECHNOLOGY

INSTALLED.—A school covered by clause (i) which has not purchased and installed Internet filtering technology—

"(aa) for the first program year in which they are applying for funds, shall certify that it is undertaking procurement to purchase and install filtering technology; and

"(bb) for the second program year, shall certify that they are in compliance with subparagraph (B).

Any school that is unable to certify compliance in the second program year shall be ineligible for all funding for the second year and all subsequent years under this program, until such time as the school comes into compliance.

"(I) WAIVERS.—Any school subject to subclause (II) that cannot come into compliance with subparagraph (B) in the second year may seek a waiver of subclause (II)(bb) if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by such subclause. A school, school board, or other authority with responsibility for administration of the school shall notify the Commission of the applicability of such subclause to the school. Such notice shall certify that the school in question will be brought into compliance prior to the start of the third program year in which the school is applying for funds.

"(B) NONCOMPLIANCE.—

"(i) FAILURE TO SUBMIT CERTIFICATION.—Any school that knowingly fails to comply with the application guidelines regarding the annual submission of certification required by this paragraph shall not be eligible for funding under this program.

"(ii) FAILURE TO COMPLY WITH CERTIFICATION.—Any school that knowingly fails to ensure the use of its computers in accordance with a

certification under subparagraph (B) shall reimburse all funds received in violation thereof."

(b) LIBRARIES.—Such section 254(h) is further amended by inserting after paragraph (5), as amended by subsection (a) of this section, the following new paragraph:

"(6) REQUIREMENTS FOR CERTAIN LIBRARIES WITH COMPUTERS HAVING INTERNET ACCESS.—

"(A) INTERNET FILTERING.—

"(i) IN GENERAL.—A library having one or more computers with Internet access may not receive services at discount rates under paragraph (1)(B) unless the library—

"(I) submits to the Commission the certifications described in subparagraphs (B) and (C); and

"(II) ensures the use of such computers in accordance with the certification.

"(ii) APPLICABILITY.—The prohibitions in paragraph (1) shall not apply with respect to a library that receives services at discount rates under paragraph (1)(B) only for purposes other than the provision of Internet access, Internet service , or internal connections.

"(iii) PUBLIC NOTICE, HEARING.—A library described in clause (i) shall provide reasonable public notice and hold at least 1 public hearing or meeting to address the proposed Internet use policy.

"(B) CERTIFICATION WITH RESPECT TO MINORS.—A certification under this subparagraph is a certification that the library—

"(i) has selected a technology for its computers with Internet access in order to filter or block Internet access through such computers to

"(I) material that is obscene;

"(II) child pornography; and

"(III) material that is harmful to minors; and

"(ii) is enforcing a policy to ensure the operation of the technology during any use of such computers by minors.

"(C) CERTIFICATION WITH RESPECT TO ADULTS.—A certification under this paragraph is a certification that the library—

"(i) has selected a technology for its computers with Internet access in order to filter or block Internet access through such computers to—

"(I) material that is obscene; and

"(II) child pornography; and

"(ii) is enforcing a policy to ensure the operation of the technology during any use of such computers.

"(D) DISABLING DURING ADULT USE.—An administrator, supervisor, or other person authorized by the certifying authority under subparagraph (A)(i) may disable the technology, during use by an adult, to enable unfiltered access for bona fide research or other lawful purpose.

"(E) TIMING OF IMPLEMENTATION.—

"(i) IN GENERAL.—Subject to clause (ii) in the case of any library covered by this paragraph under section 201(h) of the Children's Internet Protection Act, the certification under subparagraph (B) shall be made

as part of the application process for the next program funding year following enactment, and for each subsequent year thereafter.

"(ii) PROCESS.—

"(I) LIBRARIES WITH FILTERING INTERNET TECHNOLOGY INSTALLED.—

A library covered by clause (i) which has already purchased and installed Internet filtering technology shall certify to its compliance with subparagraph (B) during each annual program application cycle.

"(II) LIBRARIES WITHOUT INTERNET FILTERING TECHNOLOGY

INSTALLED.—A library covered by clause (i) which has not purchased and installed Internet filtering technology—

"(aa) for the first program year in which they are applying for funds, shall certify that it is undertaking procurement to purchase and install filtering technology; and

"(bb) for the second program year, shall certify that they are in compliance with subparagraph (B).

Any library that is unable to certify compliance in the second program year shall be ineligible for all funding for the second year and all subsequent years under this program, until such time as the library comes into compliance.

"(III) WAIVERS.—Any library subject to subclause (II) that cannot come into compliance with subparagraph (B) in the second year may seek a waiver of subclause (II)(bb) if State or local

procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by such subclause. A library, library board, or other authority with responsibility for administration of the library shall notify the Commission of the applicability of such subclause to the library. Such notice shall certify that the library in question will be brought into compliance prior to the start of the third program year in which the library is applying for funds.

"(F) NONCOMPLIANCE.—

"(i) FAILURE TO SUBMIT CERTIFICATION.—Any library that knowingly fails to comply with the application guidelines regarding the annual submission of certification required by this paragraph shall not be eligible for funding under this program.

"(III) FAILURE TO COMPLY WITH CERTIFICATION.—Any library that knowingly fails to ensure the use of its computers in accordance with a certification under subparagraph (B) shall reimburse all funds received in violation thereof."

(c) DEFINITIONS.—Paragraph (7) of such section, as redesignated by subsection (a)(1) of this section, is amended by adding at the end the following:

"(D) MINOR.—The term 'minor' means any individual who has not attained the age of 17 years.

"(E) OBSCENE.—The term 'obscene' has the meaning given such term in section 1460 of title 18, United States Code.

"(F) CHILD PORNOGRAPHY.—The term 'child pornography' has the meaning given such term in section 2256 of title 18, United States Code.

"(G) MATERIAL THAT IS HARMFUL TO MINORS.—The term 'material that is harmful to minors' means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that—

"(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion,

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

"(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

"(H) SEXUAL ACT, SEXUAL CONTACT.—The terms 'sexual act' and 'sexual contact' have the meanings given such terms in section 2246 of title 18, United States Code."

(d) CONFORMING AMENDMENT.—Paragraph (4) of such section is amended by striking "paragraph (5)(A)" and inserting "paragraph (7)(A)".

(e) SEPARABILITY.—If any provision of paragraph (5) or (6) of section 254(h) of the Communications Act of 1934, as amended by this section, or the application to any person or circumstance is held invalid, the remainder of such paragraph and the application of such paragraph to other persons or circumstances shall not be affected thereby.

(f) REGULATIONS.—

(1) REQUIREMENT.—The Federal Communications Commission shall prescribe regulations for purposes of administering the provisions of paragraphs (5) and (6) of section 254(h) of the Communications Act of 1934, as amended by this section.

(2) DEADLINE.—Notwithstanding any other provision of law, the Commission shall prescribe regulations under paragraph (1) so as to ensure that such regulations take effect 120 days after the date of the enactment of this Act.

(g) AVAILABILITY OF RATES.—Discounted rates under section 254(h)(1)(B) of the Communications Act of 1934 (47 U.S.C. 254(h)(1)(B))—

(1) shall be available in amounts up to the annual cap to Federal universal service support for schools and libraries only for services covered by Federal Communications Commission regulations on priorities for funding telecommunications services, Internet access, Internet services, and internet connections that assign priorities for available funds for the poorest schools; and

(2) to the extent made available under paragraph (1), may be used for the purchase or acquisition of filtering or blocking products necessary to meet the requirements of section 254(h)(5) and (6) of that Act, but not for the purchase of software or other technology other than what is required to meet those requirements.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect 120 days after the date of the enactment of this Act.

# **TITLE III—NEIGHBORHOOD CHILDREN'S INTERNET PROTECTION**

## **SEC. 301. SHORT TITLE.**

This title may be cited as the "Neighborhood Children's Internet Protection Act".

## **SEC. 302. INTERNET USE POLICY REQUIRED.**

(a) IN GENERAL.—Section 254 of the Communications Act of 1934 (47 U.S.C. 254)

is amended by adding at the end the following:

"(I) INTERNET USE POLICY REQUIREMENT FOR SCHOOLS AND LIBRARIES.—

"(1) IN GENERAL.—In carrying out its responsibilities under subsection (h), each school or library to which subsection (h) applies shall—

"(A) adopt and implement an Internet use policy that addresses—

"(i) access by minors to inappropriate matter on the Internet and World Wide Web;

"(ii) the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;

"(iii) unauthorized access, including so-called 'hacking', and other unlawful activities by minors online;

"(iv) unauthorized disclosure, use, and dissemination of personal identification information regarding minors; and

"(v) measures designed to restrict minors' access to materials harmful to minors; and

"(B) provide reasonable public notice and hold at least one public hearing or meeting to address the proposed Internet use policy.

"(2) LOCAL DETERMINATION OF CONTENT.—A determination regarding what matter is inappropriate for minors shall be made by the school board, library, or other authority responsible for making the determination. No agency or instrumentality of the United States Government may—

"(A) establish criteria for making such determination;

"(B) review the determination made by the certifying school, school board, library, or other authority; or

"(C) consider the criteria employed by the certifying school, school board, library, or other authority in the administration of subsection (h)(1)(B).

"(3) EFFECTIVE DATE.—This subsection shall apply with respect to schools and libraries on or after July 1, 2001."

(b) STUDY.—Not later than 18 months after the date of the enactment of this Act, the National Telecommunications and Information Administration shall initiate a notice and comment proceeding for purposes of—

(1) evaluating whether or not currently available commercial internet blocking and filtering software adequately addresses the needs of educational institutions;

(2) making recommendations on how to foster the development of products which meet such needs; and

(3) evaluating the development and effectiveness of local Internet use policies that are currently in operation after community input.

## **SEC. 303. IMPLEMENTING REGULATIONS**

Not later than 120 days after the date of enactment of this Act, the Federal Communications Commission shall adopt rules implementing this Act and the amendments made by this Act.

## **TITLE IV—EXPEDITED REVIEW**

### **SEC. 401. EXPEDITED REVIEW**

(a) **THREE-JUDGE DISTRICT COURT HEARING.**—Notwithstanding any other provision of law, any civil action challenging the constitutionality, on its face, of this Act or any amendment made by this Act, or any provision thereof, shall be heard by a district court of 3 judges convened pursuant to the provisions of section 2284 of title 28, United States Code.

(b) **APPELLATE REVIEW.**—Notwithstanding any other provision of law, an interlocutory or final judgment, decree, or order of the court of 3 judges in an action under subsection (a) holding this Act or an amendment made by this Act, or any provision thereof, unconstitutional shall be reviewable as a matter of right by direct appeal to the Supreme Court. Any such appeal shall be filed not more than 20 days after entry of such judgment, decree, or order.