

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1213

Introduced by Albrecht, 17.

Read first time January 20, 2022

Committee: Judiciary

1 A BILL FOR AN ACT relating to obscenity; to provide powers and duties to
2 school districts, schools, and the Nebraska Library Commission
3 relating to digital or online resources provided to students in
4 kindergarten through grade twelve and access to materials obscene as
5 to minors or harmful to minors; to require the Nebraska Library
6 Commission and the State Department of Education to submit a report;
7 to provide a civil cause of action; to provide an irrebuttable
8 presumption that a vendor, person, or entity providing resources
9 under this act has knowledge of the content provided; and to define
10 terms.

11 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) A school district, a school, or the Nebraska Library
2 Commission may offer digital or online resources to students in
3 kindergarten through grade twelve only if the vendor, person, or entity
4 providing the resources verifies that all the resources comply with and
5 will continue to comply with subsection (2) of this section.

6 (2) Digital or online resources offered by a school district, a
7 school, or the Nebraska Library Commission to students in kindergarten
8 through grade twelve must have technology protection measures that:

9 (a) Filter and block access to materials obscene as to minors or
10 harmful to minors, as described in section 28-808;

11 (b) Establish an account for each minor student using digital or
12 online resources and require verification of account information when the
13 student accesses such digital or online resources;

14 (c) Establish an account for a parent or guardian of each minor
15 student allowing the parent or guardian access to all materials
16 accessible to the minor;

17 (d) Ensure that no account information is disclosed to any person or
18 entity other than the holder of the account or a parent or guardian of a
19 minor account holder; and

20 (e) Prevent the initiation of concurrent sessions for any account.

21 (3) Notwithstanding any contract provision to the contrary for a
22 contract entered into or renewed after the effective date of this act, if
23 a provider of digital or online resources fails to comply with the
24 requirements of subsection (2) of this section, the school district, the
25 school, or the Nebraska Library Commission may withhold further payments,
26 if any are due, to the provider pending verification of compliance with
27 subsection (2) of this section. The withholding of such payments under
28 this subsection shall not be considered breach of contract on the part of
29 the school district, the school, or the Nebraska Library Commission.

30 (4) Notwithstanding any contract provision to the contrary for
31 contracts entered into or renewed after the effective date of this act,

1 if a provider of digital or online resources fails to timely verify that
2 the provider is in compliance with the requirements of subsection (2) of
3 this section, such an act of noncompliance, if proven, presents an
4 irrebuttable presumption of a breach of contract on the part of the
5 provider.

6 (5) No later than December 1 of each year, the Nebraska Library
7 Commission and the State Department of Education shall submit to the
8 Governor and to the Education Committee of the Legislature a
9 comprehensive written report on any issues related to provider compliance
10 with technology protection measures required by subsection (2) of this
11 section.

12 (6) Any minor or parent or guardian of a minor attending a school in
13 which a violation of subsection (2) of this section occurs may bring a
14 civil action in the district court to enjoin further violations, to
15 recover the damages sustained by the minor or the parent or guardian, or
16 both, together with the costs of the suit, including reasonable
17 attorney's fees, and the court may in its discretion, increase the award
18 of damages to an amount that bears a reasonable relation to the damages
19 sustained or the egregiousness of the violation, except that such
20 increase in the award shall not exceed ten thousand dollars per
21 violation. For purposes of this subsection, each specific instance of
22 materials obscene as to minors or harmful to minors, as described in
23 section 28-808, that occurs shall constitute a separate violation.

24 (7) For the purpose of any cause of action under this section, it
25 will be an irrebuttable presumption that any vendor, person, or entity
26 providing the resources described in subsection (2) knows the content of
27 the resources provided.

28 (8) For purposes of this section:

29 (a) Account means digital information representing a natural person,
30 including such person's date of birth inclusive of the year, and
31 associating an identifier such as a username and an authenticator such as

1 a password that are uniquely associated with such natural person;

2 (b) Block means limiting access based on the labeling of indexed
3 content such that materials obscene as to minors or harmful to minors can
4 be recognized and removed from search results before presentation to a
5 minor;

6 (c) Concurrent sessions means the ability of an account to be used
7 by multiple natural persons simultaneously from multiple devices, thereby
8 not allowing the determination of the age of any user;

9 (d) Digital resources means content in electronic form accessible at
10 any school, including through the Nebraska Library Commission, inclusive
11 of all electronic devices;

12 (e) Filter means the use of technology developed to prevent requests
13 to websites known to include content obscene as to minors or harmful to
14 minors and to examine content in responses being delivered in order to
15 prevent such obscene or harmful content from being presented to a minor;

16 (f) Nebraska Library Commission means the organization by that name
17 or its successor organization, that provides an information technology
18 infrastructure, including various affiliated schools, school districts,
19 and libraries, used for the purposes of making computer services
20 available to minor students, inclusive of all electronic devices; and

21 (g) Online resources means materials in electronic form from third-
22 party vendors or providers made available to students at any school
23 district, any school, or the Nebraska Library Commission, inclusive of
24 all electronic devices.