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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Ritter and Newman

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SUMMARY

- Establishes safety policy and technology protection measure requirements for entities that provide digital or online library database resources to a public school, public library, or state agency.
- Permits a public school, library, or agency to only offer those resources to minor children through providers that are compliant with those requirements.
- Establishes a procedure under which a public school, library, or agency must notify a provider of a violation of the bill's requirements and issue tiered penalties if the provider does not comply.

DETAILED ANALYSIS

Digital or online library database resources

Requirements

The bill limits which digital or online library database resources a public school, public library, or state agency may offer to a minor child or, in the case of a school, student enrolled in any of grades K to 12. Specifically, a public school, library, or agency may only offer those resources if the resource provider has safety policies and technology protection measures that:

1. Prohibit and prevent a user from sending, receiving, viewing, or downloading materials or performances that are obscene, harmful to juveniles, depict child sexual exploitation, or encourage or promote the use of illegal drugs, tobacco, alcohol, gambling, or other illegal activities; and
2. Filter or block access to materials or performances that are obscene, harmful to juveniles, depict child sexual exploitation, or encourage or promote the use of illegal drugs, tobacco, alcohol, gambling, or other illegal activities.

Under the bill, any provision of a contract entered into, amended, or renewed after the bill's effective date that does not comply with those requirements is void and unenforceable as against public policy.¹

Violations

Notice

The bill establishes a procedure for a school, library, or agency to follow if a resource provider violates the bill's requirements. The school, library, or agency must notify the resource provider in writing of the nature of the violation. The notice must include reasonable identification of the prohibited material and the manner by which it was accessed. It must also allow the provider 30 days after the date the notice is sent to either correct the violation or present evidence that the alleged acts do not violate the bill and are not a breach of the resource provider's obligations under the contract.²

Withholding payments

After notifying the resource provider of the violation, and notwithstanding contrary provisions of any contract entered into, amended, or renewed after the bill's effective date, a school, library, or agency must withhold further payments, if any, to the provider pending verification of the provider's compliance with the bill's requirements.³

Penalties

The bill requires a resource provider to correct any violation of the bill's requirements within 30 days of receiving a notice. If a resource provider fails to correct a violation in a timely manner, the bill establishes the following penalties:

1. For a first violation, the provider must be considered in breach of contract and is subject to any penalties for breach described in the contract;
2. For a second violation, the provider must reduce the agreed-upon contract price for the digital or online library database resources by 10%. If the contract has been paid in full, or if the balance owed by the school, library, or agency is less than 10% of the contract price, the provider must return an amount necessary to effectuate a 10% reduction of the contract price.
3. For a third violation, the contract must be considered terminated and the provider must refund the full agreed-upon contract price.

¹ R.C. 3329.11(A), (B), (C), and (D)(1), 3375.03(A), (B), (C), and (D)(1), and 4113.35(A), (B), (C), and (D)(1); conforming changes in R.C. 3314.03(A)(11)(d) and 3326.11.

² R.C. 3329.11(F)(1) to (3), 3375.03(F)(1) to (3), and 4113.35(F)(1) to (3).

³ R.C. 3329.11(D)(2), 3375.03(D)(2), and 4113.35(D)(2).

Additionally, the school, library, or agency must report to the Attorney General a resource provider's failure to comply with the bill within 30 days after the school, library, or agency learns of the noncompliance. Such reports are public records.⁴

The bill permits the Attorney General to investigate if, based on the Attorney General's own inquiries or as a result of one or more complaints, the Attorney General has reasonable cause to believe that a person or enterprise has violated the bill's requirements. For that investigation, the Attorney General has the same investigative powers and remedies as are available to the Attorney General under the Ohio Consumer Sales Practices Law.⁵

Judicial determination of rights

As a matter of last resort, the bill permits a school, library, or agency to seek a judicial determination of rights under the contract from a court of competent jurisdiction and deposit any disputed contract funds with the clerk of that court.⁶

A resource provider that receives the notification may apply to the clerk of the court for the release of the funds on any of the following grounds:

1. The school, library, or agency did not comply with the notice requirements established under the bill;
2. The violation in the notice was remedied within 30 days of the date that the school, library, or agency sent the notice of the violation; or
3. The acts described in the notice do not constitute a violation of the bill's requirements and are not a breach of the provider's obligations under the contract.

The school, library, or agency must be named as a party to any action filed by the resource provider and has the right to file an answer and counterclaim as in other civil actions. A trial must be held within 60 days of the date of the filing of the provider's complaint, unless, for good cause shown, the court continues the period for trial.

If the court finds that the resource provider met any of the conditions for releasing the funds, the court must order the release of the disputed contract funds on deposit with the clerk, less costs, to the provider.

If the court finds that the school, library, or agency failed to comply with the notice requirements established in the bill, the school, library, or agency is liable for damages to the provider. If the school, library, or agency intentionally acted in bad faith in depositing funds with the clerk, it is liable for damages to the provider and is also liable for costs and reasonable attorney's fees.⁷

⁴ R.C. 109.881(C), 3329.11(E) and (G), 3375.03(E) and (G), and 4113.35(E) and (G).

⁵ R.C. 109.881(A) and (B).

⁶ R.C. 3329.11(F)(4), 3375.03(F)(4), and 4113.35(F)(4).

⁷ R.C. 3329.13, 3375.032, and 4113.37.

Deposited funds

If funds are deposited with the clerk, the clerk must give written notice of the deposit to the resource provider and place the funds in a separate escrow account in the name of the clerk in an Ohio bank or building and loan association. The clerk must keep in a separate docket an account of each deposit, with the names and addresses of the school, library, or agency and the resource provider. The clerk may charge a fee of one percent of the amount of funds, which must be assessed as court costs. All interest that accrues on those funds must be paid into the treasury of the political subdivision for which the clerk works.⁸

Exceptions

The bill expressly states that an internet service provider, search engine, or cloud service provider, and any affiliate or subsidiary of those entities, cannot be held to have violated the bill's requirements solely for providing services that do not constitute direct provision of digital or library database resources to a school, library, or agency.

Additionally, it expressly states that the bill does not apply to the use of digital or online library database resources of students enrolled in a state institution of higher education, including students enrolled in an institution through the College Credit Plus Program.⁹

HISTORY

Action	Date
Introduced	11-10-25

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⁸ R.C. 3329.12, 3375.031, and 4113.36.

⁹ R.C. 3329.11(H) and (I), 3375.03(H), and 4113.35(H).