As Introduced

136th General Assembly

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Representatives Ritter, Newman

Cosponsors: Representatives Bird, Williams, Johnson, Hall, T., King, Salvo, Klopfenstein, Gross, Workman

To amend sections 3314.03 and 3326.11 and to enact sections 109.881, 3329.11, 3329.12, 3329.13, 3375.03, 3375.031, 3375.032, 4113.35, 4113.36, and 4113.37 of the Revised Code regarding the provision of online library database resources by public schools, public libraries, and state agencies.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3314.03 and 3326.11 be amended and sections 109.881, 3329.11, 3329.12, 3329.13, 3375.03, 3375.031, 3375.032, 4113.35, 4113.36, and 4113.37 of the Revised Code be enacted to read as follows:

Sec. 109.881. (A) If, by 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 engaged or is engaging in an act or practice that violates section 3329.11, 3375.03 or 4113.35 of the Revised Code, the attorney general may investigate.

(B) All powers and remedies available to the attorney general under section 1345.06 of the Revised Code are available

to the attorney general for an investigation under this section.

(C) A report made under section 3329.11, 3375.03 or 4113.35 of the Revised Code is a public record for the purposes of section 149.43 of the Revised Code.

Sec. 3314.03. A copy of every contract entered into under this section shall be filed with the director of education and workforce. The department of education and workforce shall make available on its web site a copy of every approved, executed contract filed with the director under this section.

(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following:

(1) That the school shall be established as either of the following:

(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003;

(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003.

(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum;

(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement assessments;

(4) Performance standards, including but not limited to

all applicable report card measures set forth in section 3302.03 or 3314.017 of the Revised Code, by which the success of the school will be evaluated by the sponsor;

(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;

(6)(a) Dismissal procedures;

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in seventy-two consecutive hours of the learning opportunities offered to the student.

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the Revised Code.

(9) An addendum to the contract outlining the facilities to be used that contains at least the following information:

(a) A detailed description of each facility used for instructional purposes;

(b) The annual costs associated with leasing each facility that are paid by or on behalf of the school;

(c) The annual mortgage principal and interest payments

that are paid by the school;

(d) The name of the lender or landlord, identified as such, and the lender's or landlord's relationship to the operator, if any.

(10) Qualifications of employees, including both of the following:

(a) A requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours or forty hours per week pursuant to section 3319.301 of the Revised Code;

(b) A prohibition against the school employing an individual described in section 3314.104 of the Revised Code in any position.

(11) That the school will comply with the following requirements:

(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year.

(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school.

(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution.

(d) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710,

3301.0711, 3301.0712, 3301.0715, 3301.0729, 3301.948, 3302.037, 3313.472, 3313.473, 3313.474, 3313.50, 3313.539, 3313.5310, 3313.5318, 3313.5319, 3313.608, 3313.609, 3313.6012, 3313.6013, 3313.6014, 3313.6020, 3313.6024, 3313.6026, 3313.6028, 3313.6029, 3313.643, 3313.648, 3313.6411, 3313.6413, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.668, 3313.669, 3313.6610, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.7112, 3313.7117, 3313.721, 3313.753, 3313.80, 3313.814, 3313.816, 3313.817, 3313.818, 3313.819, 3313.86, 3313.89, 3313.96, 3319.073, 3319.077, 3319.078, 3319.0812, 3319.238, 3319.318, 3319.321, 3319.324, 3319.39, 3319.391, 3319.393, 3319.41, 3319.46, 3319.90, 3319.614, 3320.01, 3320.02, 3320.03, 3320.04, 3321.01, 3321.041, 3321.13, 3321.14, 3321.141, 3321.17, 3321.18, 3321.19, 3322.20, 3322.24, 3323.251, 3327.10, 3329.11, 4111.17, 4113.52, 5502.262, 5502.703, and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district and will comply with section 3301.0714 of the Revised Code in the manner specified in section 3314.17 of the Revised Code.

(e) The school shall comply with Chapter 102. and section 2921.42 of the Revised Code.

(f) The school will comply with sections 3313.61, 3313.611, 3313.614, 3313.617, 3313.618, and 3313.6114 of the Revised Code, except that for students who enter ninth grade for the first time before July 1, 2010, the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum in any high school prior to receiving a high school diploma may be met by completing the curriculum adopted by the governing authority of the community school rather than the curriculum specified in Title XXXIII of

the Revised Code or any rules of the department. Beginning with students who enter ninth grade for the first time on or after July 1, 2010, the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum of a high school prior to receiving a high school diploma shall be met by completing the requirements prescribed in section 3313.6027 and division (C) of section 3313.603 of the Revised Code, unless the person qualifies under division (D) or (F) of that section. Each school shall comply with the plan for awarding high school credit based on demonstration of subject area competency, and beginning with the 2017-2018 school year, with the updated plan that permits students enrolled in seventh and eighth grade to meet curriculum requirements based on subject area competency adopted by the department under divisions (J)(1) and (2) of section 3313.603 of the Revised Code. Beginning with the 2018-2019 school year, the school shall comply with the framework for granting units of high school credit to students who demonstrate subject area competency through work-based learning experiences, internships, or cooperative education developed by the department under division (J)(3) of section 3313.603 of the Revised Code.

(g) The school governing authority will submit within four months after the end of each school year a report of its activities and progress in meeting the goals and standards of divisions (A)(3) and (4) of this section and its financial status to the sponsor and the parents of all students enrolled in the school.

(h) The school, unless it is an internet- or computer-based community school, will comply with section 3313.801 of the Revised Code as if it were a school district.

(i) If the school is the recipient of moneys from a grant awarded under the federal race to the top program, Division (A), Title XIV, Sections 14005 and 14006 of the "American Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the school will pay teachers based upon performance in accordance with section 3317.141 and will comply with section 3319.111 of the Revised Code as if it were a school district.

(j) If the school operates a preschool program that is licensed by the department under sections 3301.52 to 3301.59 of the Revised Code, the school shall comply with sections 3301.50 to 3301.59 of the Revised Code and the minimum standards for preschool programs prescribed in rules adopted by the department of children and youth under section 3301.53 of the Revised Code.

(k) The school will comply with sections 3313.6021 and 3313.6023 of the Revised Code as if it were a school district unless it is either of the following:

(i) An internet- or computer-based community school;

(ii) A community school in which a majority of the enrolled students are children with disabilities as described in division (B)(2) of section 3314.35 of the Revised Code.

(l) The school will comply with section 3321.191 of the Revised Code, unless it is an internet- or computer-based community school that is subject to section 3314.261 of the Revised Code.

(12) Arrangements for providing health and other benefits to employees;

(13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division

(E) of this section.

(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;

(15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year.

(16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;

(17) Whether the school is to be created by converting all or part of an existing public school or educational service center building or is to be a new start-up school, and if it is a converted public school or service center building, specification of any duties or responsibilities of an employer that the board of education or service center governing board that operated the school or building before conversion is delegating to the governing authority of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees;

(18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school;

(19) A provision requiring the governing authority to adopt a policy regarding the admission of students who reside outside the district in which the school is located. That policy shall comply with the admissions procedures specified in sections 3314.06 and 3314.061 of the Revised Code and, at the

sole discretion of the authority, shall do one of the following:

(a) Prohibit the enrollment of students who reside outside the district in which the school is located;

(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;

(c) Permit the enrollment of students who reside in any other district in the state.

(20) A provision recognizing the authority of the department to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;

(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code;

(22) A provision recognizing both of the following:

(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;

(b) The authority of the department as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action.

(23) A description of the learning opportunities that will

be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (H)(2) of section 3314.08 of the Revised Code;

(24) The school will comply with sections 3302.04 and 3302.041 of the Revised Code, except that any action required to be taken by a school district pursuant to those sections shall be taken by the sponsor of the school.

(25) Beginning in the 2006-2007 school year, the school will open for operation not later than the thirtieth day of September each school year, unless the mission of the school as specified under division (A)(2) of this section is solely to serve dropouts. In its initial year of operation, if the school fails to open by the thirtieth day of September, or within one year after the adoption of the contract pursuant to division (D) of section 3314.02 of the Revised Code if the mission of the school is solely to serve dropouts, the contract shall be void.

(26) Whether the school's governing authority is planning to seek designation for the school as a STEM school equivalent under section 3326.032 of the Revised Code;

(27) That the school's attendance and participation policies will be available for public inspection;

(28) That the school's attendance and participation records shall be made available to the department, auditor of state, and school's sponsor to the extent permitted under and in accordance with the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, and any regulations promulgated under that act, and section 3319.321 of

the Revised Code;

(29) If a school operates using the blended learning model, as defined in section 3301.079 of the Revised Code, all of the following information:

(a) An indication of what blended learning model or models will be used;

(b) A description of how student instructional needs will be determined and documented;

(c) The method to be used for determining competency, granting credit, and promoting students to a higher grade level;

(d) The school's attendance requirements, including how the school will document participation in learning opportunities;

(e) A statement describing how student progress will be monitored;

(f) A statement describing how private student data will be protected;

(g) A description of the professional development activities that will be offered to teachers.

(30) A provision requiring that all moneys the school's operator loans to the school, including facilities loans or cash flow assistance, must be accounted for, documented, and bear interest at a fair market rate;

(31) A provision requiring that, if the governing authority contracts with an attorney, accountant, or entity specializing in audits, the attorney, accountant, or entity shall be independent from the operator with which the school has

contracted.

(32) A provision requiring the governing authority to adopt an enrollment and attendance policy that requires a student's parent to notify the community school in which the student is enrolled when there is a change in the location of the parent's or student's primary residence.

(33) A provision requiring the governing authority to adopt a student residence and address verification policy for students enrolling in or attending the school.

(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following:

(1) The process by which the governing authority of the school will be selected in the future;

(2) The management and administration of the school;

(3) If the community school is a currently existing public school or educational service center building, alternative arrangements for current public school students who choose not to attend the converted school and for teachers who choose not to teach in the school or building after conversion;

(4) The instructional program and educational philosophy of the school;

(5) Internal financial controls.

When submitting the plan under this division, the school shall also submit copies of all policies and procedures regarding internal financial controls adopted by the governing authority of the school.

(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for monitoring, oversight, and technical assistance of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.

(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department under division (B) of section 3314.015 of the Revised Code and shall include the following:

(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;

(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;

(3) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;

(4) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the school to be on probationary status pursuant to section 3314.073 of the Revised Code, suspend the operation of the school pursuant to section 3314.072 of the Revised Code, or terminate the contract of the school pursuant to section 3314.07

of the Revised Code as determined necessary by the sponsor;

(5) Have in place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year.

(E) Upon the expiration of a contract entered into under this section, the sponsor of a community school may, with the approval of the governing authority of the school, renew that contract for a period of time determined by the sponsor, but not ending earlier than the end of any school year, if the sponsor finds that the school's compliance with applicable laws and terms of the contract and the school's progress in meeting the academic goals prescribed in the contract have been satisfactory. Any contract that is renewed under this division remains subject to the provisions of sections 3314.07, 3314.072, and 3314.073 of the Revised Code.

(F) If a community school fails to open for operation within one year after the contract entered into under this section is adopted pursuant to division (D) of section 3314.02 of the Revised Code or permanently closes prior to the expiration of the contract, the contract shall be void and the school shall not enter into a contract with any other sponsor. A school shall not be considered permanently closed because the operations of the school have been suspended pursuant to section 3314.072 of the Revised Code.

Sec. 3326.11. Each science, technology, engineering, and mathematics school established under this chapter and its governing body shall comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 3301.0714, 3301.0715, 3301.0729, 3301.948, 3302.037, 3313.14, 3313.15, 3313.16, 3313.18, 3313.201, 3313.26, 3313.472,

3313.473, 3313.474, 3313.48, 3313.481, 3313.482, 3313.50, 3313.539, 3313.5310, 3313.5318, 3313.5319, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6020, 3313.6021, 3313.6023, 3313.6024, 3313.6026, 3313.6028, 3313.6029, 3313.61, 3313.611, 3313.614, 3313.615, 3313.617, 3313.618, 3313.6114, 3313.643, 3313.648, 3313.6411, 3313.6413, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.668, 3313.669, 3313.6610, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.717, 3313.718, 3313.719, 3313.7112, 3313.7117, 3313.721, 3313.753, 3313.80, 3313.801, 3313.814, 3313.816, 3313.817, 3313.818, 3313.819, 3313.86, 3313.89, 3313.96, 3319.073, 3319.077, 3319.078, 3319.0812, 3319.21, 3319.238, 3319.318, 3319.32, 3319.321, 3319.324, 3319.35, 3319.39, 3319.391, 3319.393, 3319.41, 3319.45, 3319.46, 3319.90, 3319.614, 3320.01, 3320.02, 3320.03, 3320.04, 3321.01, 3321.041, 3321.05, 3321.13, 3321.14, 3321.141, 3321.17, 3321.18, 3321.19, 3321.191, 3322.20, 3322.24, 3323.251, 3327.10, 3329.11, 4111.17, 4113.52, 5502.262, 5502.703, and 5705.391 and Chapters 102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district.

Sec. 3329.11. (A) As used in this section:

(1) "Child sexual exploitation" means the willful or malicious exploitation of a person under eighteen years of age and includes conduct that would constitute a violation of section 2905.32, 2907.19, 2907.21, 2907.22, 2907.231, 2907.24, 2907.31, 2907.311, 2907.321, 2907.322, or 2907.323 of the Revised Code.

(2) "Harmful to juveniles," "material," "obscene," and "performance" have the same meanings as in section 2907.01 of the Revised Code.

(3) "School district" has the same meaning as in section 3317.01 of the Revised Code.

(B) A school district or school district employee may offer digital or online library database resources to students in grades kindergarten through twelve only if the provider of the resources verifies that the resources comply with the requirements in division (C) of this section.

(C) A provider of digital or online library database resources shall have safety policies and technology protection measures that do both of the following:

(1) Prohibit and prevent a user of the resource 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;

(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.

(D)(1) Any provision of a contract entered into, amended, or renewed on or after the effective date of this section that does not comply with this section is void and unenforceable as against public policy.

(2) Notwithstanding any contrary provision of a contract entered into, amended, or renewed on or after the effective date of this section, but subject to division (F) of this section, if a provider of digital or online library database resources fails to comply with the requirements of this section, the school

district shall withhold further payments, if any, to the provider pending verification of compliance.

(E) A provider of digital or online library database resources to students in grades kindergarten through twelve shall correct any violation of division (C) of this section within thirty days after receiving notice of the violation from the school district. Failure to timely correct such a violation shall result in the following penalties:

(1) For the first violation, the provider shall be considered in breach of contract and is subject to any penalties for breach described in the contract.

(2) For the second violation, the provider shall reduce the agreed-upon contract price for the digital or online library database resources by ten per cent. If the contract has been paid in full, or if the balance owed by the school district is less than ten per cent of the contract price, the provider shall return to the school district an amount necessary to effectuate a ten per cent reduction of the contract price.

(3) For a third violation, the contract shall be considered terminated, and the provider shall refund the full agreed-upon contract price to the school district.

(F)(1) Prior to withholding any payment under division (E) of this section, the school district shall provide written notice of the nature of the violation to the provider of the digital or online library database resources.

(2) The school district shall include in the notice reasonable identification of the prohibited material and the manner it was accessed.

(3) The school district shall allow the provider thirty

days after the date the notice is sent to either correct the violation or present evidence that the acts alleged do not violate this section and are not a breach of the provider's obligations under the contract.

(4) As a matter of last resort, the school district may 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 in accordance with section 3329.12 of the Revised Code.

(G) A school district shall report to the attorney general a provider's failure to comply with this section not later than thirty days after the school district learns of the noncompliance.

(H) No internet service provider, search engine, or cloud service provider, and no affiliate or subsidiary of the foregoing, shall be held to have violated this section solely for providing services that do not constitute the direct provision of digital or online library database resources to students in grades kindergarten through twelve.

(I) This section does not apply to the use of digital or online library database resources by students enrolled in a state institution of higher education, as defined in section 3345.011 of the Revised Code, including students enrolled in that institution through the college credit plus program under Chapter 3365. of the Revised Code.

Sec. 3329.12. (A) Whenever a school district deposits disputed contract funds with the clerk of a court as provided in section 3923.11 of the Revised Code, the clerk shall give written notice to each provider of digital or online library

database resources that is a party to the contract that is the subject to the dispute.

(B) The clerk shall place such funds in a separate escrow account in the name of the clerk in a bank or building and loan association domiciled in this state.

(C) The clerk shall keep in a separate docket an account of each deposit, with the names and addresses of the school district and the provider of digital or online library database resources.

(D) The clerk may charge a fee of one per cent of the amount of the funds deposited which shall be assessed as court costs.

(E) All interest that accrues on the funds deposited with the clerk under this section shall be paid into the treasury of the political subdivision for which the clerk performs the clerk's duties.

Sec. 3329.13. (A) A provider of digital or online library database resources that receives notice that disputed contract funds have been deposited with a clerk of a court pursuant to sections 3329.11 and 3329.12 of the Revised Code may apply to the clerk for release of the funds on any of the following grounds:

(1) That the school district did not comply with the notice requirements described in divisions (F)(1) and (2) of section 3329.11 of the Revised Code;

(2) That the violation described in the notice is timely remedied in accordance with division (F)(3) of section 3329.11 of the Revised Code;

(3) That the acts described in the notice do not constitute a violation of section 3329.11 of the Revised Code and are not a breach of the provider's obligations under the contract.

(B) The school district shall be named as a party to any action filed by the provider under this section and has the right to file an answer and counterclaim as in other civil actions. A trial shall be held within sixty days of the date of the filing of the provider's complaint unless, for good cause shown, the court continues the period for trial.

(C) If the court finds that any of the conditions described in divisions (A)(1), (2), and (3) of this section apply, the court shall order the release of the disputed contract funds on deposit with the clerk, less costs, to the provider.

(D) If the court finds that the school district failed to comply with the notice requirements described in divisions (F)(1) and (2) of section 3329.11 of the Revised Code, or intentionally acted in bad faith in proceeding under section 3329.12 of the Revised Code, the school district shall be liable for damages caused to the provider. If the school district intentionally acted in bad faith in proceeding under section 3329.12 of the Revised Code, the school district shall also be liable for costs and reasonable attorney's fees.

Sec. 3375.03. (A) As used in this section:

(1) "Child sexual exploitation" means the willful or malicious exploitation of a person under eighteen years of age and includes conduct that would constitute a violation of section 2905.32, 2907.19, 2907.21, 2907.22, 2907.231, 2907.24,

2907.31, 2907.311, 2907.321, 2907.322, or 2907.323 of the Revised Code.

(2) "Harmful to juveniles," "material," "obscene," and "performance" have the same meanings as in section 2907.01 of the Revised Code.

(3) "Public library" has the same meaning as in section 3375.404 of the Revised Code.

(B) A public library may offer digital or online library database resources to minor children only if the provider of the resources verifies that the resources comply with the requirements in division (C) of this section.

(C) A provider of digital or online library database resources shall have safety policies and technology protection measures that do both of the following:

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

(2) Filter or block access to materials or performances that are obscene, harmful to juveniles, or depict child sexual exploitation or encourage or promote the use of illegal drugs, tobacco, alcohol, gambling, or other illegal activities.

(D)(1) Any provision of a contract entered into, amended, or renewed on or after the effective date of this section that does not comply with this section is void and unenforceable as against public policy.

(2) Notwithstanding any contrary provision of a contract entered into, amended, or renewed on or after the effective date of this section, but subject to division (F) of this section, if a provider of digital or online library database resources fails to comply with the requirements of this section, the public library shall withhold further payments, if any, to the provider pending verification of compliance.

(E) A provider of digital or online library database resources to a public library shall correct any violation of division (C) of this section within thirty days after receiving notice of the violation from the public library. Failure to timely correct such a violation shall result in the following penalties:

(1) For the first violation, the provider shall be considered in breach of contract and is subject to any penalties for breach described in the contract.

(2) For the second violation, the provider shall reduce the agreed-upon contract price for the digital or online library database resources by ten per cent. If the contract has been paid in full, or if the balance owed by the public library is less than ten per cent of the contract price, the provider shall return to the public library an amount necessary to effectuate a ten per cent reduction of the contract price.

(3) For a third violation, the contract shall be considered terminated, and the provider shall refund the full agreed-upon contract price to the public library.

(F)(1) Prior to withholding any payment under division (E) of this section, the public library shall provide written notice of the nature of the violation to the provider of the digital or

online library database resources.

(2) The public library shall include in the notice reasonable identification of the prohibited material and the manner it was accessed.

(3) The public library shall allow the provider thirty days from the date the notice is sent to either correct the violation or present evidence that the acts alleged do not violate this section and are not a breach of the provider's obligations under the contract.

(4) As a matter of last resort, the public library may 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 in accordance with section 3375.031 of the Revised Code.

(G) A public library shall report to the attorney general a provider's failure to comply with this section not later than thirty days after the public library learns of the noncompliance.

(H) No internet service provider, search engine, or cloud service provider, and no affiliate or subsidiary of the foregoing, shall be held to have violated this section solely for providing services that do not constitute the direct provision of digital or online library database resources to a public library.

Sec. 3375.031. (A) Whenever a public library deposits disputed contract funds with the clerk of a court as provided in section 3375.03 of the Revised Code, the clerk shall give written notice to each provider of digital or online library database resources that is a party to the contract that is the

subject to the dispute.

(B) The clerk shall place such funds in a separate escrow account in the name of the clerk in a bank or building and loan association domiciled in this state.

(C) The clerk shall keep in a separate docket an account of each deposit, with the names and addresses of the public library and the provider of digital or online library database resources.

(D) The clerk may charge a fee of one per cent of the amount of the funds deposited which shall be assessed as court costs.

(E) All interest that accrues on the funds deposited with the clerk under this section shall be paid into the treasury of the political subdivision for which the clerk performs the clerk's duties.

Sec. 3375.032. (A) A provider of digital or online library database resources that receives notice that disputed contract funds have been deposited with a clerk of a court pursuant to sections 3329.11 and 3329.12 of the Revised Code may apply to the clerk for release of the funds on any of the following grounds:

(1) That the public library did not comply with the notice requirements described in divisions (F)(1) and (2) of section 3329.11 of the Revised Code;

(2) That the violation described in the notice is timely remedied in accordance with division (F)(3) of section 3329.11 of the Revised Code;

(3) That the acts described in the notice do not

constitute a violation of section 3329.11 of the Revised Code and are not a breach of the provider's obligations under the contract.

(B) The public library shall be named as a party to any action filed by the provider under this section and has the right to file an answer and counterclaim as in other civil actions. A trial shall be held within sixty days of the date of the filing of the provider's complaint, unless, for good cause shown, the court continues the period for trial.

(C) If the court finds that any of the conditions described in divisions (A)(1), (2), and (3) of this section apply, the court shall order the release of the disputed contract funds on deposit with the clerk, less costs, to the provider.

(D) If the court finds that the public library failed to comply with the notice requirements described in divisions (F)(1) and (2) of section 3375.03 of the Revised Code, or intentionally acted in bad faith in proceeding under section 3375.031 of the Revised Code, the public library shall be liable for damages caused to the provider. If the public library intentionally acted in bad faith in proceeding under section 3375.031 of the Revised Code, the public library shall also be liable for costs and reasonable attorney's fees.

Sec. 4113.35. (A) As used in this section:

(1) "Child sexual exploitation" means the willful or malicious exploitation of a person under eighteen years of age and includes conduct that would constitute a violation of section 2905.32, 2907.19, 2907.21, 2907.22, 2907.231, 2907.24, 2907.31, 2907.311, 2907.321, 2907.322, or 2907.323 of the

Revised Code.

(2) "Harmful to juveniles," "material," "obscene," and "performance" have the same meanings as in section 2907.01 of the Revised Code.

(3) "State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government.

(B) A state agency or state agency employee may offer digital or online library database resources to minors only if the provider of the resources verifies that the resources comply with the requirements contained in division (C) of this section.

(C) A provider of digital or online library database resources shall have safety policies and technology protection measures that do both of the following:

(1) Prohibit and prevent a user of the resource 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;

(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.

(D)(1) Any provision of a contract entered into, amended, or renewed on or after the effective date of this section that does not comply with this section is void and unenforceable as against public policy.

(2) Notwithstanding any contrary provision of a contract entered into, amended, or renewed on or after the effective date of this section, but subject to division (F) of this section, if a provider of digital or online library database resources fails to comply with the requirements of this section, the state agency shall withhold further payments, if any, to the provider pending verification of compliance.

(E) A provider of digital or online library database resources to a state agency shall correct any violation of division (C) of this section within thirty days after receiving notice of the violation from the state agency. Failure to timely correct such a violation shall result in the following penalties:

(1) For the first violation, the provider shall be considered in breach of contract and is subject to any penalties for breach described in the contract.

(2) For the second violation, the provider shall reduce the agreed-upon contract price for the digital or online library database resources by ten per cent. If the contract has been paid in full, or if the balance owed by the state agency is less than ten per cent of the contract price, the provider shall return to the state agency an amount necessary to effectuate a ten per cent reduction of the contract price.

(3) For a third violation, the contract shall be considered terminated, and the provider shall refund the full agreed-upon contract price to the state agency.

(F)(1) Prior to withholding any payment under division (E) of this section, the state agency shall provide written notice of the nature of the violation to the provider of the digital or

online library database resources.

(2) The state agency shall include in the notice reasonable identification of the prohibited material and the manner it was accessed.

(3) The state agency shall allow the provider thirty days from the date the notice is sent to either correct the violation or present evidence that the acts alleged do not violate this section and are not a breach of the provider's obligations under the contract.

(4) As a matter of last resort, the state agency may 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 in accordance with section 4113.36 of the Revised Code.

(G) A state agency shall report to the attorney general a provider's failure to comply with this section not later than thirty days after the state agency learns of the noncompliance.

(H) No internet service provider, search engine, or cloud service provider, and no affiliate or subsidiary of the foregoing, shall be held to have violated this section solely for providing services that do not constitute the direct provision of digital or online library database resources to a state agency.

Sec. 4113.36. (A) Whenever a state agency deposits disputed contract funds with the clerk of a court as provided in section 4113.35 of the Revised Code, the clerk shall give written notice to each provider of digital or online library database resources that is a party to the contract that is the subject to the dispute.

(B) The clerk shall place such funds in a separate escrow account in the name of the clerk in a bank or building and loan association domiciled in this state.

(C) The clerk shall keep in a separate docket an account of each deposit, with the names and addresses of the state agency and the provider of digital or online library database resources.

(D) The clerk may charge a fee of one per cent of the amount of the funds deposited which shall be assessed as court costs.

(E) All interest that accrues on the funds deposited with the clerk under this section shall be paid into the treasury of the political subdivision for which the clerk performs the clerk's duties.

Sec. 4113.37. (A) A provider of digital or online library database resources that receives notice that disputed contract funds have been deposited with a clerk of a court pursuant to sections 4113.35 and 4113.36 of the Revised Code may apply to the clerk for release of the funds on any of the following grounds:

(1) That the state agency did not comply with the notice requirements described in divisions (F)(1) and (2) of section 4113.35 of the Revised Code;

(2) That the violation described in the notice is timely remedied in accordance with division (F)(3) of section 4113.35 of the Revised Code;

(3) That the acts described in the notice do not constitute a violation of section 4113.35 of the Revised Code and are not a breach of the provider's obligations under the

contract.

(B) The state agency shall be named as a party to any action filed by the provider under this section and has the right to file an answer and counterclaim as in other civil actions. A trial shall be held within sixty days of the date of the filing of the provider's complaint, unless, for good cause shown, the court continues the period for trial.

(C) If the court finds that any of the conditions described in divisions (A)(1), (2), and (3) of this section apply, the court shall order the release of the disputed contract funds on deposit with the clerk, less costs, to the provider.

(D) If the court finds that the state agency failed to comply with the notice requirements described in divisions (F)(1) and (2) of section 4113.35 of the Revised Code, or intentionally acted in bad faith in proceeding under section 4113.36 of the Revised Code, the state agency shall be liable for damages caused to the provider. If the state agency intentionally acted in bad faith in proceeding under section 4113.36 of the Revised Code, the state agency shall also be liable for costs and reasonable attorney's fees.

Section 2. That existing sections 3314.03 and 3326.11 of the Revised Code are hereby repealed.

Section 3. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the

sections in effect prior to the effective date of the sections as presented in this act:

Section 3314.03 of the Revised Code as amended by H.B. 8, H.B. 214, H.B. 250, S.B. 104, S.B. 168, S.B. 208, and S.B. 234, all of the 135th General Assembly.

Section 3326.11 of the Revised Code as amended by H.B. 8, H.B. 47, H.B. 214, S.B. 104, S.B. 168, S.B. 208, and S.B. 234, all of the 135th General Assembly.