

As Introduced

136th General Assembly

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H. B. No. 583

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 1
sections 109.881, 3329.11, 3329.12, 3329.13, 2
3375.03, 3375.031, 3375.032, 4113.35, 4113.36, 3
and 4113.37 of the Revised Code regarding the 4
provision of online library database resources 5
by public schools, public libraries, and state 6
agencies. 7

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

Section 1. That sections 3314.03 and 3326.11 be amended 8
and sections 109.881, 3329.11, 3329.12, 3329.13, 3375.03, 9
3375.031, 3375.032, 4113.35, 4113.36, and 4113.37 of the Revised 10
Code be enacted to read as follows: 11

Sec. 109.881. (A) If, by the attorney general's own 12
inquiries or as a result of one or more complaints, the attorney 13
general has reasonable cause to believe that a person or 14
enterprise has engaged or is engaging in an act or practice that 15
violates section 3329.11, 3375.03 or 4113.35 of the Revised 16
Code, the attorney general may investigate. 17

(B) All powers and remedies available to the attorney 18
general under section 1345.06 of the Revised Code are available 19

to the attorney general for an investigation under this section. 20

(C) A report made under section 3329.11, 3375.03 or 21
4113.35 of the Revised Code is a public record for the purposes 22
of section 149.43 of the Revised Code. 23

Sec. 3314.03. A copy of every contract entered into under 24
this section shall be filed with the director of education and 25
workforce. The department of education and workforce shall make 26
available on its web site a copy of every approved, executed 27
contract filed with the director under this section. 28

(A) Each contract entered into between a sponsor and the 29
governing authority of a community school shall specify the 30
following: 31

(1) That the school shall be established as either of the 32
following: 33

(a) A nonprofit corporation established under Chapter 34
1702. of the Revised Code, if established prior to April 8, 35
2003; 36

(b) A public benefit corporation established under Chapter 37
1702. of the Revised Code, if established after April 8, 2003. 38

(2) The education program of the school, including the 39
school's mission, the characteristics of the students the school 40
is expected to attract, the ages and grades of students, and the 41
focus of the curriculum; 42

(3) The academic goals to be achieved and the method of 43
measurement that will be used to determine progress toward those 44
goals, which shall include the statewide achievement 45
assessments; 46

(4) Performance standards, including but not limited to 47

all applicable report card measures set forth in section 3302.03 48
or 3314.017 of the Revised Code, by which the success of the 49
school will be evaluated by the sponsor; 50

(5) The admission standards of section 3314.06 of the 51
Revised Code and, if applicable, section 3314.061 of the Revised 52
Code; 53

(6) (a) Dismissal procedures; 54

(b) A requirement that the governing authority adopt an 55
attendance policy that includes a procedure for automatically 56
withdrawing a student from the school if the student without a 57
legitimate excuse fails to participate in seventy-two 58
consecutive hours of the learning opportunities offered to the 59
student. 60

(7) The ways by which the school will achieve racial and 61
ethnic balance reflective of the community it serves; 62

(8) Requirements for financial audits by the auditor of 63
state. The contract shall require financial records of the 64
school to be maintained in the same manner as are financial 65
records of school districts, pursuant to rules of the auditor of 66
state. Audits shall be conducted in accordance with section 67
117.10 of the Revised Code. 68

(9) An addendum to the contract outlining the facilities 69
to be used that contains at least the following information: 70

(a) A detailed description of each facility used for 71
instructional purposes; 72

(b) The annual costs associated with leasing each facility 73
that are paid by or on behalf of the school; 74

(c) The annual mortgage principal and interest payments 75

that are paid by the school;	76
(d) The name of the lender or landlord, identified as	77
such, and the lender's or landlord's relationship to the	78
operator, if any.	79
(10) Qualifications of employees, including both of the	80
following:	81
(a) A requirement that the school's classroom teachers be	82
licensed in accordance with sections 3319.22 to 3319.31 of the	83
Revised Code, except that a community school may engage	84
noncertificated persons to teach up to twelve hours or forty	85
hours per week pursuant to section 3319.301 of the Revised Code;	86
(b) A prohibition against the school employing an	87
individual described in section 3314.104 of the Revised Code in	88
any position.	89
(11) That the school will comply with the following	90
requirements:	91
(a) The school will provide learning opportunities to a	92
minimum of twenty-five students for a minimum of nine hundred	93
twenty hours per school year.	94
(b) The governing authority will purchase liability	95
insurance, or otherwise provide for the potential liability of	96
the school.	97
(c) The school will be nonsectarian in its programs,	98
admission policies, employment practices, and all other	99
operations, and will not be operated by a sectarian school or	100
religious institution.	101
(d) The school will comply with sections 9.90, 9.91,	102
109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710,	103

3301.0711, 3301.0712, 3301.0715, 3301.0729, 3301.948, 3302.037, 104
3313.472, 3313.473, 3313.474, 3313.50, 3313.539, 3313.5310, 105
3313.5318, 3313.5319, 3313.608, 3313.609, 3313.6012, 3313.6013, 106
3313.6014, 3313.6020, 3313.6024, 3313.6026, 3313.6028, 107
3313.6029, 3313.643, 3313.648, 3313.6411, 3313.6413, 3313.66, 108
3313.661, 3313.662, 3313.666, 3313.667, 3313.668, 3313.669, 109
3313.6610, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 110
3313.71, 3313.716, 3313.718, 3313.719, 3313.7112, 3313.7117, 111
3313.721, 3313.753, 3313.80, 3313.814, 3313.816, 3313.817, 112
3313.818, 3313.819, 3313.86, 3313.89, 3313.96, 3319.073, 113
3319.077, 3319.078, 3319.0812, 3319.238, 3319.318, 3319.321, 114
3319.324, 3319.39, 3319.391, 3319.393, 3319.41, 3319.46, 115
3319.90, 3319.614, 3320.01, 3320.02, 3320.03, 3320.04, 3321.01, 116
3321.041, 3321.13, 3321.14, 3321.141, 3321.17, 3321.18, 3321.19, 117
3322.20, 3322.24, 3323.251, 3327.10, 3329.11, 4111.17, 4113.52, 118
5502.262, 5502.703, and 5705.391 and Chapters 117., 1347., 119
2744., 3365., 3742., 4112., 4123., 4141., and 4167. of the 120
Revised Code as if it were a school district and will comply 121
with section 3301.0714 of the Revised Code in the manner 122
specified in section 3314.17 of the Revised Code. 123

(e) The school shall comply with Chapter 102. and section 124
2921.42 of the Revised Code. 125

(f) The school will comply with sections 3313.61, 126
3313.611, 3313.614, 3313.617, 3313.618, and 3313.6114 of the 127
Revised Code, except that for students who enter ninth grade for 128
the first time before July 1, 2010, the requirement in sections 129
3313.61 and 3313.611 of the Revised Code that a person must 130
successfully complete the curriculum in any high school prior to 131
receiving a high school diploma may be met by completing the 132
curriculum adopted by the governing authority of the community 133
school rather than the curriculum specified in Title XXXVIII of 134

the Revised Code or any rules of the department. Beginning with 135
students who enter ninth grade for the first time on or after 136
July 1, 2010, the requirement in sections 3313.61 and 3313.611 137
of the Revised Code that a person must successfully complete the 138
curriculum of a high school prior to receiving a high school 139
diploma shall be met by completing the requirements prescribed 140
in section 3313.6027 and division (C) of section 3313.603 of the 141
Revised Code, unless the person qualifies under division (D) or 142
(F) of that section. Each school shall comply with the plan for 143
awarding high school credit based on demonstration of subject 144
area competency, and beginning with the 2017-2018 school year, 145
with the updated plan that permits students enrolled in seventh 146
and eighth grade to meet curriculum requirements based on 147
subject area competency adopted by the department under 148
divisions (J) (1) and (2) of section 3313.603 of the Revised 149
Code. Beginning with the 2018-2019 school year, the school shall 150
comply with the framework for granting units of high school 151
credit to students who demonstrate subject area competency 152
through work-based learning experiences, internships, or 153
cooperative education developed by the department under division 154
(J) (3) of section 3313.603 of the Revised Code. 155

(g) The school governing authority will submit within four 156
months after the end of each school year a report of its 157
activities and progress in meeting the goals and standards of 158
divisions (A) (3) and (4) of this section and its financial 159
status to the sponsor and the parents of all students enrolled 160
in the school. 161

(h) The school, unless it is an internet- or computer- 162
based community school, will comply with section 3313.801 of the 163
Revised Code as if it were a school district. 164

(i) If the school is the recipient of moneys from a grant 165
awarded under the federal race to the top program, Division (A), 166
Title XIV, Sections 14005 and 14006 of the "American Recovery 167
and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, 168
the school will pay teachers based upon performance in 169
accordance with section 3317.141 and will comply with section 170
3319.111 of the Revised Code as if it were a school district. 171

(j) If the school operates a preschool program that is 172
licensed by the department under sections 3301.52 to 3301.59 of 173
the Revised Code, the school shall comply with sections 3301.50 174
to 3301.59 of the Revised Code and the minimum standards for 175
preschool programs prescribed in rules adopted by the department 176
of children and youth under section 3301.53 of the Revised Code. 177

(k) The school will comply with sections 3313.6021 and 178
3313.6023 of the Revised Code as if it were a school district 179
unless it is either of the following: 180

(i) An internet- or computer-based community school; 181

(ii) A community school in which a majority of the 182
enrolled students are children with disabilities as described in 183
division (B) (2) of section 3314.35 of the Revised Code. 184

(l) The school will comply with section 3321.191 of the 185
Revised Code, unless it is an internet- or computer-based 186
community school that is subject to section 3314.261 of the 187
Revised Code. 188

(12) Arrangements for providing health and other benefits 189
to employees; 190

(13) The length of the contract, which shall begin at the 191
beginning of an academic year. No contract shall exceed five 192
years unless such contract has been renewed pursuant to division 193

(E) of this section.	194
(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;	195 196
(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.	197 198 199
(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;	200 201 202 203
(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;	204 205 206 207 208 209 210 211 212 213 214
(18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school;	215 216 217
(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	218 219 220 221 222

sole discretion of the authority, shall do one of the following:	223
(a) Prohibit the enrollment of students who reside outside the district in which the school is located;	224 225
(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;	226 227 228
(c) Permit the enrollment of students who reside in any other district in the state.	229 230
(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;	231 232 233 234
(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;	235 236 237
(22) A provision recognizing both of the following:	238
(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;	239 240 241 242
(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.	243 244 245 246 247 248 249
(23) A description of the learning opportunities that will	250

be offered to students including both classroom-based and non- 251
classroom-based learning opportunities that is in compliance 252
with criteria for student participation established by the 253
department under division (H) (2) of section 3314.08 of the 254
Revised Code; 255

(24) The school will comply with sections 3302.04 and 256
3302.041 of the Revised Code, except that any action required to 257
be taken by a school district pursuant to those sections shall 258
be taken by the sponsor of the school. 259

(25) Beginning in the 2006-2007 school year, the school 260
will open for operation not later than the thirtieth day of 261
September each school year, unless the mission of the school as 262
specified under division (A) (2) of this section is solely to 263
serve dropouts. In its initial year of operation, if the school 264
fails to open by the thirtieth day of September, or within one 265
year after the adoption of the contract pursuant to division (D) 266
of section 3314.02 of the Revised Code if the mission of the 267
school is solely to serve dropouts, the contract shall be void. 268

(26) Whether the school's governing authority is planning 269
to seek designation for the school as a STEM school equivalent 270
under section 3326.032 of the Revised Code; 271

(27) That the school's attendance and participation 272
policies will be available for public inspection; 273

(28) That the school's attendance and participation 274
records shall be made available to the department, auditor of 275
state, and school's sponsor to the extent permitted under and in 276
accordance with the "Family Educational Rights and Privacy Act 277
of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, and any 278
regulations promulgated under that act, and section 3319.321 of 279

the Revised Code;	280
(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:	281 282 283
(a) An indication of what blended learning model or models will be used;	284 285
(b) A description of how student instructional needs will be determined and documented;	286 287
(c) The method to be used for determining competency, granting credit, and promoting students to a higher grade level;	288 289
(d) The school's attendance requirements, including how the school will document participation in learning opportunities;	290 291 292
(e) A statement describing how student progress will be monitored;	293 294
(f) A statement describing how private student data will be protected;	295 296
(g) A description of the professional development activities that will be offered to teachers.	297 298
(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;	299 300 301 302
(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	303 304 305 306

contracted.	307
(32) A provision requiring the governing authority to	308
adopt an enrollment and attendance policy that requires a	309
student's parent to notify the community school in which the	310
student is enrolled when there is a change in the location of	311
the parent's or student's primary residence.	312
(33) A provision requiring the governing authority to	313
adopt a student residence and address verification policy for	314
students enrolling in or attending the school.	315
(B) The community school shall also submit to the sponsor	316
a comprehensive plan for the school. The plan shall specify the	317
following:	318
(1) The process by which the governing authority of the	319
school will be selected in the future;	320
(2) The management and administration of the school;	321
(3) If the community school is a currently existing public	322
school or educational service center building, alternative	323
arrangements for current public school students who choose not	324
to attend the converted school and for teachers who choose not	325
to teach in the school or building after conversion;	326
(4) The instructional program and educational philosophy	327
of the school;	328
(5) Internal financial controls.	329
When submitting the plan under this division, the school	330
shall also submit copies of all policies and procedures	331
regarding internal financial controls adopted by the governing	332
authority of the school.	333

(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; 363

(5) Have in place a plan of action to be undertaken in the 364
event the community school experiences financial difficulties or 365
closes prior to the end of a school year. 366

(E) Upon the expiration of a contract entered into under 367
this section, the sponsor of a community school may, with the 368
approval of the governing authority of the school, renew that 369
contract for a period of time determined by the sponsor, but not 370
ending earlier than the end of any school year, if the sponsor 371
finds that the school's compliance with applicable laws and 372
terms of the contract and the school's progress in meeting the 373
academic goals prescribed in the contract have been 374
satisfactory. Any contract that is renewed under this division 375
remains subject to the provisions of sections 3314.07, 3314.072, 376
and 3314.073 of the Revised Code. 377

(F) If a community school fails to open for operation 378
within one year after the contract entered into under this 379
section is adopted pursuant to division (D) of section 3314.02 380
of the Revised Code or permanently closes prior to the 381
expiration of the contract, the contract shall be void and the 382
school shall not enter into a contract with any other sponsor. A 383
school shall not be considered permanently closed because the 384
operations of the school have been suspended pursuant to section 385
3314.072 of the Revised Code. 386

Sec. 3326.11. Each science, technology, engineering, and 387
mathematics school established under this chapter and its 388
governing body shall comply with sections 9.90, 9.91, 109.65, 389
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 390
3301.0714, 3301.0715, 3301.0729, 3301.948, 3302.037, 3313.14, 391
3313.15, 3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 392

3313.473, 3313.474, 3313.48, 3313.481, 3313.482, 3313.50, 393
3313.539, 3313.5310, 3313.5318, 3313.5319, 3313.608, 3313.6012, 394
3313.6013, 3313.6014, 3313.6020, 3313.6021, 3313.6023, 395
3313.6024, 3313.6026, 3313.6028, 3313.6029, 3313.61, 3313.611, 396
3313.614, 3313.615, 3313.617, 3313.618, 3313.6114, 3313.643, 397
3313.648, 3313.6411, 3313.6413, 3313.66, 3313.661, 3313.662, 398
3313.666, 3313.667, 3313.668, 3313.669, 3313.6610, 3313.67, 399
3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 400
3313.717, 3313.718, 3313.719, 3313.7112, 3313.7117, 3313.721, 401
3313.753, 3313.80, 3313.801, 3313.814, 3313.816, 3313.817, 402
3313.818, 3313.819, 3313.86, 3313.89, 3313.96, 3319.073, 403
3319.077, 3319.078, 3319.0812, 3319.21, 3319.238, 3319.318, 404
3319.32, 3319.321, 3319.324, 3319.35, 3319.39, 3319.391, 405
3319.393, 3319.41, 3319.45, 3319.46, 3319.90, 3319.614, 3320.01, 406
3320.02, 3320.03, 3320.04, 3321.01, 3321.041, 3321.05, 3321.13, 407
3321.14, 3321.141, 3321.17, 3321.18, 3321.19, 3321.191, 3322.20, 408
3322.24, 3323.251, 3327.10, 3329.11, 4111.17, 4113.52, 5502.262, 409
5502.703, and 5705.391 and Chapters 102., 117., 1347., 2744., 410
3307., 3309., 3365., 3742., 4112., 4123., 4141., and 4167. of 411
the Revised Code as if it were a school district. 412

Sec. 3329.11. (A) As used in this section: 413

(1) "Child sexual exploitation" means the willful or 414
malicious exploitation of a person under eighteen years of age 415
and includes conduct that would constitute a violation of 416
section 2905.32, 2907.19, 2907.21, 2907.22, 2907.231, 2907.24, 417
2907.31, 2907.311, 2907.321, 2907.322, or 2907.323 of the 418
Revised Code. 419

(2) "Harmful to juveniles," "material," "obscene," and 420
"performance" have the same meanings as in section 2907.01 of 421
the Revised Code. 422

(3) "School district" has the same meaning as in section 3317.01 of the Revised Code. 423
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(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. 425
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(C) A provider of digital or online library database resources shall have safety policies and technology protection measures that do both of the following: 430
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(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; 433
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(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. 439
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(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. 443
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(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 447
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district shall withhold further payments, if any, to the 452
provider pending verification of compliance. 453

(E) A provider of digital or online library database 454
resources to students in grades kindergarten through twelve 455
shall correct any violation of division (C) of this section 456
within thirty days after receiving notice of the violation from 457
the school district. Failure to timely correct such a violation 458
shall result in the following penalties: 459

(1) For the first violation, the provider shall be 460
considered in breach of contract and is subject to any penalties 461
for breach described in the contract. 462

(2) For the second violation, the provider shall reduce 463
the agreed-upon contract price for the digital or online library 464
database resources by ten per cent. If the contract has been 465
paid in full, or if the balance owed by the school district is 466
less than ten per cent of the contract price, the provider shall 467
return to the school district an amount necessary to effectuate 468
a ten per cent reduction of the contract price. 469

(3) For a third violation, the contract shall be 470
considered terminated, and the provider shall refund the full 471
agreed-upon contract price to the school district. 472

(F) (1) Prior to withholding any payment under division (E) 473
of this section, the school district shall provide written 474
notice of the nature of the violation to the provider of the 475
digital or online library database resources. 476

(2) The school district shall include in the notice 477
reasonable identification of the prohibited material and the 478
manner it was accessed. 479

(3) The school district shall allow the provider thirty 480

days after the date the notice is sent to either correct the 481
violation or present evidence that the acts alleged do not 482
violate this section and are not a breach of the provider's 483
obligations under the contract. 484

(4) As a matter of last resort, the school district may 485
seek a judicial determination of rights under the contract from 486
a court of competent jurisdiction and deposit any disputed 487
contract funds with the clerk of that court in accordance with 488
section 3329.12 of the Revised Code. 489

(G) A school district shall report to the attorney general 490
a provider's failure to comply with this section not later than 491
thirty days after the school district learns of the 492
noncompliance. 493

(H) No internet service provider, search engine, or cloud 494
service provider, and no affiliate or subsidiary of the 495
foregoing, shall be held to have violated this section solely 496
for providing services that do not constitute the direct 497
provision of digital or online library database resources to 498
students in grades kindergarten through twelve. 499

(I) This section does not apply to the use of digital or 500
online library database resources by students enrolled in a 501
state institution of higher education, as defined in section 502
3345.011 of the Revised Code, including students enrolled in 503
that institution through the college credit plus program under 504
Chapter 3365. of the Revised Code. 505

Sec. 3329.12. (A) Whenever a school district deposits 506
disputed contract funds with the clerk of a court as provided in 507
section 3923.11 of the Revised Code, the clerk shall give 508
written notice to each provider of digital or online library 509

database resources that is a party to the contract that is the 510
subject to the dispute. 511

(B) The clerk shall place such funds in a separate escrow 512
account in the name of the clerk in a bank or building and loan 513
association domiciled in this state. 514

(C) The clerk shall keep in a separate docket an account 515
of each deposit, with the names and addresses of the school 516
district and the provider of digital or online library database 517
resources. 518

(D) The clerk may charge a fee of one per cent of the 519
amount of the funds deposited which shall be assessed as court 520
costs. 521

(E) All interest that accrues on the funds deposited with 522
the clerk under this section shall be paid into the treasury of 523
the political subdivision for which the clerk performs the 524
clerk's duties. 525

Sec. 3329.13. (A) A provider of digital or online library 526
database resources that receives notice that disputed contract 527
funds have been deposited with a clerk of a court pursuant to 528
sections 3329.11 and 3329.12 of the Revised Code may apply to 529
the clerk for release of the funds on any of the following 530
grounds: 531

(1) That the school district did not comply with the 532
notice requirements described in divisions (F) (1) and (2) of 533
section 3329.11 of the Revised Code; 534

(2) That the violation described in the notice is timely 535
remedied in accordance with division (F) (3) of section 3329.11 536
of the Revised Code; 537

(3) That the acts described in the notice do not 538
constitute a violation of section 3329.11 of the Revised Code 539
and are not a breach of the provider's obligations under the 540
contract. 541

(B) The school district shall be named as a party to any 542
action filed by the provider under this section and has the 543
right to file an answer and counterclaim as in other civil 544
actions. A trial shall be held within sixty days of the date of 545
the filing of the provider's complaint unless, for good cause 546
shown, the court continues the period for trial. 547

(C) If the court finds that any of the conditions 548
described in divisions (A) (1), (2), and (3) of this section 549
apply, the court shall order the release of the disputed 550
contract funds on deposit with the clerk, less costs, to the 551
provider. 552

(D) If the court finds that the school district failed to 553
comply with the notice requirements described in divisions (F) 554
(1) and (2) of section 3329.11 of the Revised Code, or 555
intentionally acted in bad faith in proceeding under section 556
3329.12 of the Revised Code, the school district shall be liable 557
for damages caused to the provider. If the school district 558
intentionally acted in bad faith in proceeding under section 559
3329.12 of the Revised Code, the school district shall also be 560
liable for costs and reasonable attorney's fees. 561

Sec. 3375.03. (A) As used in this section: 562

(1) "Child sexual exploitation" means the willful or 563
malicious exploitation of a person under eighteen years of age 564
and includes conduct that would constitute a violation of 565
section 2905.32, 2907.19, 2907.21, 2907.22, 2907.231, 2907.24, 566

<u>2907.31, 2907.311, 2907.321, 2907.322, or 2907.323 of the</u>	567
<u>Revised Code.</u>	568
<u>(2) "Harmful to juveniles," "material," "obscene," and</u>	569
<u>"performance" have the same meanings as in section 2907.01 of</u>	570
<u>the Revised Code.</u>	571
<u>(3) "Public library" has the same meaning as in section</u>	572
<u>3375.404 of the Revised Code.</u>	573
<u>(B) A public library may offer digital or online library</u>	574
<u>database resources to minor children only if the provider of the</u>	575
<u>resources verifies that the resources comply with the</u>	576
<u>requirements in division (C) of this section.</u>	577
<u>(C) A provider of digital or online library database</u>	578
<u>resources shall have safety policies and technology protection</u>	579
<u>measures that do both of the following:</u>	580
<u>(1) Prohibit and prevent a user of the resource from</u>	581
<u>sending, receiving, viewing, or downloading materials or</u>	582
<u>performances that are obscene, harmful to juveniles, or depict</u>	583
<u>child sexual exploitation, or encourage or promote the use of</u>	584
<u>illegal drugs, tobacco, alcohol, gambling, or other illegal</u>	585
<u>activities;</u>	586
<u>(2) Filter or block access to materials or performances</u>	587
<u>that are obscene, harmful to juveniles, or depict child sexual</u>	588
<u>exploitation or encourage or promote the use of illegal drugs,</u>	589
<u>tobacco, alcohol, gambling, or other illegal activities.</u>	590
<u>(D) (1) Any provision of a contract entered into, amended,</u>	591
<u>or renewed on or after the effective date of this section that</u>	592
<u>does not comply with this section is void and unenforceable as</u>	593
<u>against public policy.</u>	594

(2) Notwithstanding any contrary provision of a contract 595
entered into, amended, or renewed on or after the effective date 596
of this section, but subject to division (F) of this section, if 597
a provider of digital or online library database resources fails 598
to comply with the requirements of this section, the public 599
library shall withhold further payments, if any, to the provider 600
pending verification of compliance. 601

(E) A provider of digital or online library database 602
resources to a public library shall correct any violation of 603
division (C) of this section within thirty days after receiving 604
notice of the violation from the public library. Failure to 605
timely correct such a violation shall result in the following 606
penalties: 607

(1) For the first violation, the provider shall be 608
considered in breach of contract and is subject to any penalties 609
for breach described in the contract. 610

(2) For the second violation, the provider shall reduce 611
the agreed-upon contract price for the digital or online library 612
database resources by ten per cent. If the contract has been 613
paid in full, or if the balance owed by the public library is 614
less than ten per cent of the contract price, the provider shall 615
return to the public library an amount necessary to effectuate a 616
ten per cent reduction of the contract price. 617

(3) For a third violation, the contract shall be 618
considered terminated, and the provider shall refund the full 619
agreed-upon contract price to the public library. 620

(F) (1) Prior to withholding any payment under division (E) 621
of this section, the public library shall provide written notice 622
of the nature of the violation to the provider of the digital or 623

online library database resources. 624

(2) The public library shall include in the notice 625
reasonable identification of the prohibited material and the 626
manner it was accessed. 627

(3) The public library shall allow the provider thirty 628
days from the date the notice is sent to either correct the 629
violation or present evidence that the acts alleged do not 630
violate this section and are not a breach of the provider's 631
obligations under the contract. 632

(4) As a matter of last resort, the public library may 633
seek a judicial determination of rights under the contract from 634
a court of competent jurisdiction and deposit any disputed 635
contract funds with the clerk of that court in accordance with 636
section 3375.031 of the Revised Code. 637

(G) A public library shall report to the attorney general 638
a provider's failure to comply with this section not later than 639
thirty days after the public library learns of the 640
noncompliance. 641

(H) No internet service provider, search engine, or cloud 642
service provider, and no affiliate or subsidiary of the 643
foregoing, shall be held to have violated this section solely 644
for providing services that do not constitute the direct 645
provision of digital or online library database resources to a 646
public library. 647

Sec. 3375.031. (A) Whenever a public library deposits 648
disputed contract funds with the clerk of a court as provided in 649
section 3375.03 of the Revised Code, the clerk shall give 650
written notice to each provider of digital or online library 651
database resources that is a party to the contract that is the 652

subject to the dispute. 653

(B) The clerk shall place such funds in a separate escrow 654
account in the name of the clerk in a bank or building and loan 655
association domiciled in this state. 656

(C) The clerk shall keep in a separate docket an account 657
of each deposit, with the names and addresses of the public 658
library and the provider of digital or online library database 659
resources. 660

(D) The clerk may charge a fee of one per cent of the 661
amount of the funds deposited which shall be assessed as court 662
costs. 663

(E) All interest that accrues on the funds deposited with 664
the clerk under this section shall be paid into the treasury of 665
the political subdivision for which the clerk performs the 666
clerk's duties. 667

Sec. 3375.032. (A) A provider of digital or online library 668
database resources that receives notice that disputed contract 669
funds have been deposited with a clerk of a court pursuant to 670
sections 3329.11 and 3329.12 of the Revised Code may apply to 671
the clerk for release of the funds on any of the following 672
grounds: 673

(1) That the public library did not comply with the notice 674
requirements described in divisions (F) (1) and (2) of section 675
3329.11 of the Revised Code; 676

(2) That the violation described in the notice is timely 677
remedied in accordance with division (F) (3) of section 3329.11 678
of the Revised Code; 679

(3) That the acts described in the notice do not 680

constitute a violation of section 3329.11 of the Revised Code 681
and are not a breach of the provider's obligations under the 682
contract. 683

(B) The public library shall be named as a party to any 684
action filed by the provider under this section and has the 685
right to file an answer and counterclaim as in other civil 686
actions. A trial shall be held within sixty days of the date of 687
the filing of the provider's complaint, unless, for good cause 688
shown, the court continues the period for trial. 689

(C) If the court finds that any of the conditions 690
described in divisions (A) (1), (2), and (3) of this section 691
apply, the court shall order the release of the disputed 692
contract funds on deposit with the clerk, less costs, to the 693
provider. 694

(D) If the court finds that the public library failed to 695
comply with the notice requirements described in divisions (F) 696
(1) and (2) of section 3375.03 of the Revised Code, or 697
intentionally acted in bad faith in proceeding under section 698
3375.031 of the Revised Code, the public library shall be liable 699
for damages caused to the provider. If the public library 700
intentionally acted in bad faith in proceeding under section 701
3375.031 of the Revised Code, the public library shall also be 702
liable for costs and reasonable attorney's fees. 703

Sec. 4113.35. (A) As used in this section: 704

(1) "Child sexual exploitation" means the willful or 705
malicious exploitation of a person under eighteen years of age 706
and includes conduct that would constitute a violation of 707
section 2905.32, 2907.19, 2907.21, 2907.22, 2907.231, 2907.24, 708
2907.31, 2907.311, 2907.321, 2907.322, or 2907.323 of the 709

Revised Code. 710

(2) "Harmful to juveniles," "material," "obscene," and 711
"performance" have the same meanings as in section 2907.01 of 712
the Revised Code. 713

(3) "State agency" means every organized body, office, or 714
agency established by the laws of the state for the exercise of 715
any function of state government. 716

(B) A state agency or state agency employee may offer 717
digital or online library database resources to minors only if 718
the provider of the resources verifies that the resources comply 719
with the requirements contained in division (C) of this section. 720

(C) A provider of digital or online library database 721
resources shall have safety policies and technology protection 722
measures that do both of the following: 723

(1) Prohibit and prevent a user of the resource from 724
sending, receiving, viewing, or downloading materials or 725
performances that are obscene, harmful to juveniles, depict 726
child sexual exploitation, or encourage or promote the use of 727
illegal drugs, tobacco, alcohol, gambling, or other illegal 728
activities; 729

(2) Filter or block access to materials or performances 730
that are obscene, harmful to juveniles, depict child sexual 731
exploitation, or encourage or promote the use of illegal drugs, 732
tobacco, alcohol, gambling, or other illegal activities. 733

(D) (1) Any provision of a contract entered into, amended, 734
or renewed on or after the effective date of this section that 735
does not comply with this section is void and unenforceable as 736
against public policy. 737

(2) Notwithstanding any contrary provision of a contract 738
entered into, amended, or renewed on or after the effective date 739
of this section, but subject to division (F) of this section, if 740
a provider of digital or online library database resources fails 741
to comply with the requirements of this section, the state 742
agency shall withhold further payments, if any, to the provider 743
pending verification of compliance. 744

(E) A provider of digital or online library database 745
resources to a state agency shall correct any violation of 746
division (C) of this section within thirty days after receiving 747
notice of the violation from the state agency. Failure to timely 748
correct such a violation shall result in the following 749
penalties: 750

(1) For the first violation, the provider shall be 751
considered in breach of contract and is subject to any penalties 752
for breach described in the contract. 753

(2) For the second violation, the provider shall reduce 754
the agreed-upon contract price for the digital or online library 755
database resources by ten per cent. If the contract has been 756
paid in full, or if the balance owed by the state agency is less 757
than ten per cent of the contract price, the provider shall 758
return to the state agency an amount necessary to effectuate a 759
ten per cent reduction of the contract price. 760

(3) For a third violation, the contract shall be 761
considered terminated, and the provider shall refund the full 762
agreed-upon contract price to the state agency. 763

(F) (1) Prior to withholding any payment under division (E) 764
of this section, the state agency shall provide written notice 765
of the nature of the violation to the provider of the digital or 766

online library database resources. 767

(2) The state agency shall include in the notice 768
reasonable identification of the prohibited material and the 769
manner it was accessed. 770

(3) The state agency shall allow the provider thirty days 771
from the date the notice is sent to either correct the violation 772
or present evidence that the acts alleged do not violate this 773
section and are not a breach of the provider's obligations under 774
the contract. 775

(4) As a matter of last resort, the state agency may seek 776
a judicial determination of rights under the contract from a 777
court of competent jurisdiction and deposit any disputed 778
contract funds with the clerk of that court in accordance with 779
section 4113.36 of the Revised Code. 780

(G) A state agency shall report to the attorney general a 781
provider's failure to comply with this section not later than 782
thirty days after the state agency learns of the noncompliance. 783

(H) No internet service provider, search engine, or cloud 784
service provider, and no affiliate or subsidiary of the 785
foregoing, shall be held to have violated this section solely 786
for providing services that do not constitute the direct 787
provision of digital or online library database resources to a 788
state agency. 789

Sec. 4113.36. (A) Whenever a state agency deposits 790
disputed contract funds with the clerk of a court as provided in 791
section 4113.35 of the Revised Code, the clerk shall give 792
written notice to each provider of digital or online library 793
database resources that is a party to the contract that is the 794
subject to the dispute. 795

(B) The clerk shall place such funds in a separate escrow 796
account in the name of the clerk in a bank or building and loan 797
association domiciled in this state. 798

(C) The clerk shall keep in a separate docket an account 799
of each deposit, with the names and addresses of the state 800
agency and the provider of digital or online library database 801
resources. 802

(D) The clerk may charge a fee of one per cent of the 803
amount of the funds deposited which shall be assessed as court 804
costs. 805

(E) All interest that accrues on the funds deposited with 806
the clerk under this section shall be paid into the treasury of 807
the political subdivision for which the clerk performs the 808
clerk's duties. 809

Sec. 4113.37. (A) A provider of digital or online library 810
database resources that receives notice that disputed contract 811
funds have been deposited with a clerk of a court pursuant to 812
sections 4113.35 and 4113.36 of the Revised Code may apply to 813
the clerk for release of the funds on any of the following 814
grounds: 815

(1) That the state agency did not comply with the notice 816
requirements described in divisions (F) (1) and (2) of section 817
4113.35 of the Revised Code; 818

(2) That the violation described in the notice is timely 819
remedied in accordance with division (F) (3) of section 4113.35 820
of the Revised Code; 821

(3) That the acts described in the notice do not 822
constitute a violation of section 4113.35 of the Revised Code 823
and are not a breach of the provider's obligations under the 824

contract. 825

(B) The state agency shall be named as a party to any 826
action filed by the provider under this section and has the 827
right to file an answer and counterclaim as in other civil 828
actions. A trial shall be held within sixty days of the date of 829
the filing of the provider's complaint, unless, for good cause 830
shown, the court continues the period for trial. 831

(C) If the court finds that any of the conditions 832
described in divisions (A) (1), (2), and (3) of this section 833
apply, the court shall order the release of the disputed 834
contract funds on deposit with the clerk, less costs, to the 835
provider. 836

(D) If the court finds that the state agency failed to 837
comply with the notice requirements described in divisions (F) 838
(1) and (2) of section 4113.35 of the Revised Code, or 839
intentionally acted in bad faith in proceeding under section 840
4113.36 of the Revised Code, the state agency shall be liable 841
for damages caused to the provider. If the state agency 842
intentionally acted in bad faith in proceeding under section 843
4113.36 of the Revised Code, the state agency shall also be 844
liable for costs and reasonable attorney's fees. 845

Section 2. That existing sections 3314.03 and 3326.11 of 846
the Revised Code are hereby repealed. 847

Section 3. The General Assembly, applying the principle 848
stated in division (B) of section 1.52 of the Revised Code that 849
amendments are to be harmonized if reasonably capable of 850
simultaneous operation, finds that the following sections, 851
presented in this act as composites of the sections as amended 852
by the acts indicated, are the resulting versions of the 853

sections in effect prior to the effective date of the sections 854
as presented in this act: 855

Section 3314.03 of the Revised Code as amended by H.B. 8, 856
H.B. 214, H.B. 250, S.B. 104, S.B. 168, S.B. 208, and S.B. 234, 857
all of the 135th General Assembly. 858

Section 3326.11 of the Revised Code as amended by H.B. 8, 859
H.B. 47, H.B. 214, S.B. 104, S.B. 168, S.B. 208, and S.B. 234, 860
all of the 135th General Assembly. 861