

Cyber Safety for Kids Act of 2006 (Introduced in Senate)

S 2426 IS

109th CONGRESS
2d Session
S. 2426

To facilitate the protection of minors using the Internet from material that is harmful to minors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

March 16 (legislative day, MARCH 15), 2006

Mr. BAUCUS (for himself and Mr. PRYOR) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To facilitate the protection of minors using the Internet from material that is harmful to minors, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Cyber Safety for Kids Act of 2006'.

SEC. 2. ESTABLISHMENT OF TOP-LEVEL INTERNET DOMAIN NAME.

(a) NTIA Action- Not later than 30 days after the date of the enactment of this Act, the Secretary of Commerce, acting through the National Telecommunications and Information Administration, shall--

(1) pursuant to the authority under section II.B. of the Memorandum of Understanding Between the United States Department of Commerce and ICANN, entered into on November 25, 1998, regarding oversight of the policy for determining the circumstances under which new top-level Internet domains are added to the root system, jointly with ICANN, develop a plan in accordance with section 102 for ICANN to establish a new domain meeting the requirements in subsection (b);

(2) upon completion of the plan developed under paragraph (1), make such plan publicly available;

- (3) enter into any memorandums of understanding, agreements, and contracts with ICANN, as may be necessary to carry out the plan developed under paragraph (1); and
 - (4) make any amendments to any existing memorandums of understandings, agreements, and contracts with ICANN, as may be necessary to carry out the plan developed under paragraph (1).
- (b) Requirements for New Domain- The new domain established under subsection (a) shall be subject to the following requirements:
- (1) TOP-LEVEL, INTERNATIONAL DOMAIN-
 - (A) IN GENERAL- The new domain shall be established as a top-level, International domain having a domain name appropriate for its purpose.
 - (B) DOMAIN NAME ENDING- The new domain shall have domain name that ends in a manner that allows a user of the Internet to understand that by accessing such domain, a user is likely to view material that is harmful to minors, such as domain name ending in .xxx.
 - (2) OPERATOR OF DOMAIN- The entity selected pursuant to section 3 to establish, operate, and maintain the new domain shall--
 - (A) establish, operate, and maintain the new domain in accordance with this subsection; and
 - (B) provide for the creation of an independent board, with diverse membership, which shall be responsible for--
 - (i) establishing written criteria for--
 - (I) accepting registrants for the new domain; and
 - (II) any limitations applicable to the new domain; and
 - (ii) ensuring that subscription rates or fees for obtaining a name for the new domain are as minimal as possible.
 - (3) OTHER REQUIREMENTS- The plan developed under subsection (a) may include such other requirements with respect to the new domain as the National Telecommunications and Information Administration and ICANN jointly consider appropriate.

SEC. 3. SELECTION OF OPERATOR OF NEW DOMAIN.

- (a) Application Process- The plan developed under section 2(a) shall establish a process for soliciting applications for the establishment of the new domain described in section 2, which process shall--
- (1) commence and complete not later than 60 days after the expiration of the 30-day period referred to in section 2(a);
 - (2) provide adequate notice to prospective applicants of--
 - (A) the opportunity to submit an application; and
 - (B) the criteria for selection under subsection (b)(1);

- (3) include a fee for filing an application that does not exceed the minimum amount reasonably estimated by ICANN to be necessary to recover its expenses under section 2 and this section; and
- (4) provide for reimbursement to applicants of any amounts collected in filing fees that exceed the actual amount of expenses of ICANN under section 2 and this section.

(b) Selection Process-

(1) IN GENERAL- The plan developed under section 2(a) shall establish a process for selection, from applications submitted pursuant to subsection (a), of an application for the establishment of the new domain meeting the requirements under section 2(b).

(2) REQUIREMENTS- The selection process described in paragraph (1) shall comply with the following requirements:

(A) CRITERIA- The selection shall be made pursuant to written, objective criteria designed to ensure that--

- (i) the new domain is established, operated, and maintained in accordance with the requirements under section 2(b); and
- (ii) the entity selected to establish, operate, and maintain the new domain is the applicant most capable and qualified to do so.

(B) INITIAL REVIEW- Not later than 60 days after the completion of the application period under subsection (a)(1), ICANN shall--

- (i) review and apply the selection criteria established under subparagraph (A) to each application submitted; and
- (ii) based upon such criteria, select an application and award to the applicant a contract for the establishment, operation, and maintenance of the new domain, unless ICANN determines that no applicant could minimally provide for the establishment, operation, and maintenance of the new domain in accordance with the requirements under section 2(b).

(C) SECOND APPLICATION PERIOD- If no applicant is selected pursuant to subparagraph (B), not later than 30 days after the expiration of the 60-day period under subparagraph (B), ICANN shall commence another application and selection process that complies with the requirements under subsection (a) and this subsection.

(D) REPORT- If the second application and selection process under subparagraph (C) does not result in the award of a contract for the establishment, operation, and maintenance of the new domain, not later than 30 days after the conclusion of the 60-day period under subparagraph (C), ICANN shall--

- (i) notify the Secretary of Commerce in writing of the failure to award a contract under subparagraph (C); and

(ii) submit to the Secretary of Commerce a report describing the application and selection process and setting forth the reasons for the failure to award the contract.

(c) Full Operation- The plan developed under section 2(a) shall provide for ICANN to take all actions necessary to facilitate the full operation of the new domain not later than 6 months after the award of the contract for the establishment, operation, and maintenance of the new domain.

(d) Annual Oversight- The plan developed under section 2(a) shall provide that ICANN shall, on an annual basis, review the actions of the entity selected to establish, operate, and maintain the new domain to ensure that such entity is complying with the requirements under section 2(b).

SEC. 4. USE OF NEW DOMAIN.

Commencing not later than 6 months after the establishment of the new domain under section 2, any operator of a commercial Internet website or online service that has as its principal or primary business the making available of material that is harmful to minors shall register such website or online service with the new domain and operate such website or online service under the new domain.

SEC. 5. LIABILITY PROTECTIONS.

(a) Treatment of Publisher or Speaker- No person or entity that operates or maintains the new domain shall be treated as the publisher or speaker of any information or material provided by another registrant under the domain.

(b) Civil Liability- No person or entity that operates or maintains the new domain shall be held liable because of--

(1) any action voluntarily taken in good faith to restrict to minors access through the new domain to, or availability through the new domain of, material that is harmful to minors; or

(2) any action taken to enable or make available to registrants to the new domain or others the technical means to restrict access by minors to material described in paragraph (1).

SEC. 6. ENFORCEMENT.

(a) Violation- Any person who violates section 4, or any requirement, registration criteria, or limitation applicable to a registrant to the new domain under section 2(b), shall be subject to such civil penalties as the Secretary of Commerce shall prescribe.

(b) Enforcement- The Secretary of Commerce shall have the power to enforce the provisions of this title, including--

(1) any requirements or limitations applicable to a registrant to the new domain under section 2(b); and

(2) the imposition and collection of civil penalties under subsection (a).

(c) Periodic Audits- The Secretary of Commerce shall conduct periodic audits to ensure compliance with requirements, registration criteria, and limitations applicable to the new domain under this title.

SEC. 7. OUTREACH.

(a) In General- The Secretary of Commerce, acting through the National Telecommunications and Information Administration, shall carry out a program to publicize the availability of the new domain under this title.

(b) Commencement- The program under subsection (a) shall commence not later than 30 days after the date that the new domain first becomes operational and accessible by the public.

SEC. 8. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ICANN- The term `ICANN' means the Internet Corporation for Assigned Names and Numbers.

(2) MATERIAL THAT IS HARMFUL TO MINORS- The term `material that is harmful to minors' means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that is obscene, or that a reasonable person would find--

(A) taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest;

(B) depicts, describes, or represents, in a manner patently offensive with respect to minors--

(i) an actual or simulated sexual act or sexual contact;

(ii) an actual or simulated normal or perverted sexual act;

or

(iii) a lewd exhibition of the genitals or post-pubescent female breast; and

(C) taking the material as a whole, lacks serious literary, artistic, political, or scientific value for minors.

(3) MINOR- The term `minor' means any person under 18 years of age.

(4) NEW DOMAIN- The term `new domain' means the Internet domain established under this title.