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*Final Analysis*  
*Legislative Service Commission*

**Am. Sub. S.B. 12**  
123rd General Assembly  
(As Passed by the General Assembly)

**Sens. Mumper, Armbruster, Carnes, Wachtmann, Johnson, Latta, Gardner, Drake, Watts, Nein, Oelslager, Spada, Prentiss, DiDonato**

**Reps. Callender, Willamowski, A. Core, Tiberi, Cates, Terwilleger, Williams, Amstutz, Harris, Metzger, Grendell, Robinson, Roman, Distel, Verich, O'Brien, Householder, Ferderber, Young, Mottley, Coughlin, Gardner, Peterson, Salerno**

**Effective date:** \*

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**ACT SUMMARY**

- Prohibits the provision of internet access to prisoners in state, county, municipal, and privately operated correctional facilities unless the access is for authorized educational purposes.
- Prohibits a prisoner in a state, county, municipal, or privately operated correctional facility from accessing the internet unless the access is for authorized educational purposes.
- Requires the Director of Rehabilitation and Correction to adopt rules governing the establishment and operation of a system for providing internet access to prisoners in an approved educational program.

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**CONTENT AND OPERATION**

**Prohibiting the provision of internet access**

The act enacts prohibitions that generally prohibit the provision of internet access to prisoners in various correctional facilities and the use by prisoners of such access. Specifically, the act prohibits an officer or employee of a

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\* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

"contractor" who is operating and managing a private correctional facility from providing or permitting a prisoner to have access to the "internet" through the use of a "computer," "computer network," "computer system," "computer services," "telecommunications service," or "information service" unless both of the following apply (R.C. 9.08(B)):

(1) The prisoner is participating in an approved educational program with direct supervision that requires the use of the internet for training or research purposes.

(2) The provision of and access to the internet is in accordance with rules adopted by the Department of Rehabilitation and Correction (DRC) under the act.

Similarly, the act prohibits "county correctional officers" (R.C. 341.42(B)), "municipal correctional officers" (R.C. 753.32(B)), and officers and employees of correctional institutions under the control or supervision of DRC (R.C. 5145.31(B)) from providing or permitting prisoner access to the internet through the use of a computer, computer network, computer system, computer services, telecommunications service, or information service unless both of the conditions set forth in (1) and (2), above, apply.

#### **Penalty for providing internet access**

The reckless provision of internet access by any of the above named persons would be a violation of the prohibition against dereliction of duty, a misdemeanor of the second degree. (R.C. 2921.44.) (See **COMMENT.**)

#### **DRC rules for internet access**

The act requires the Director of DRC to adopt rules under the Administrative Procedure Act to govern the establishment and operation of a system that provides access to the internet for prisoners who are participating in an approved educational program with direct supervision that requires the use of the internet for training or research purposes. The rules must include all of the following (R.C. 5120.62):

(1) Criteria by which inmates may be screened and approved for access or training involving the internet;

(2) Designation of the authority to approve internet sites for authorized use;

(3) A requirement that only pre-approved sites will be accessible on the computers used by prisoners in the educational program;

(4) A process for the periodic review of the operation of the system, including users of the system and the sites accessed by the system;

(5) Sanctions that must be imposed against prisoners and staff members who violate DRC rules governing prisoner access to the internet.

**Prohibition against prisoner accessing the internet**

The act prohibits any prisoner in a private correctional facility from accessing the internet through the use of a computer, computer network, computer system, computer services, telecommunications service, or information service unless both of the following apply:

(1) The prisoner is participating in an approved educational program with direct supervision that requires the use of the internet for training or research purposes.

(2) The provision of and access to the internet is in accordance with rules adopted by DRC under the act.

Any prisoner who violates the prohibition is guilty of "improper internet access," a misdemeanor of the first degree. (R.C. 9.08(C).)

Similarly, the act prohibits any prisoner in a county correctional facility under the control of a county (R.C. 341.42(C)), a municipal correctional facility under the control of a municipal corporation (R.C. 753.32(C)), or a correctional institution under the control and supervision of DRC (R.C. 5145.31(C)) from accessing the internet through the use of a computer, computer network, computer system, computer services, telecommunications service, or information service unless both of the conditions set forth in (1) and (2), above, apply.

Any prisoner who violates any of these prohibitions is guilty of "improper internet access," a misdemeanor of the first degree (R.C. 341.42(C)(2), 753.32(C)(2), and 5145.31(C)(2)).

**Definitions**

The act provides that, as used in the above described prohibitions, these terms have the following meanings (R.C. 9.08(A), 341.42(A), 753.32(A), and 5145.31(A)):

"Computer" means an electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage,

computer program, or communication facilities that are connected, or related, in a computer system or network to an electronic device of that nature.

"Computer system" means a computer and related devices, whether connected or unconnected, including, but not limited to, data input, output, and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.

"Computer network" means a set of related and remotely connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.

"Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use, or data that is contained within a computer system or computer network.

"Telecommunications service" means the providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.

"Information service" means, subject to the following sentence, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including, but not limited to, electronic publishing. It does not include any use of a capability of a type described in the prior sentence for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

"Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.

"County correctional officer" means a person who is employed by a county as an employee or officer of a county jail, county workhouse, minimum security jail, joint city and county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-municipal jail or workhouse.

"Municipal correctional officer" means a person who is employed by a municipal corporation as an employee or officer of a municipal jail, municipal workhouse, minimum security jail, joint city and county workhouse, municipal-

county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-municipal jail or workhouse.

"Contractor" means a person who enters into a contract under R.C. 9.06 for the private operation of a local or state correctional facility for Ohio prisoners or a person who enters into a contract under R.C. 9.07 to operate and manage a correctional facility in Ohio for out-of-state prisoners.

"Private correctional facility" means a correctional facility operated by a contractor under a contract pursuant to R.C. 9.06 or 9.07.

"County correctional facility" means a county jail, county workhouse, minimum security jail, joint city and county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-municipal jail or workhouse.

"Municipal correctional facility" means a municipal jail, municipal workhouse, minimum security jail, joint city and county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-municipal jail or workhouse.

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## COMMENT

R.C. 2921.44(E) provides in part that no public servant shall recklessly do any act expressly forbidden by law with respect to his office. A person who violates the prohibition in the act is guilty of dereliction of duty, a misdemeanor of the second degree. Under continuing law, county correctional officers, municipal correctional officers, and officers or employees of correctional institutions under the control or supervision of DRC are all public servants. (R.C. 2921.01--not in the act.) The act expands, for the purpose of the dereliction of duty prohibition, the definition of "public servant" to include officers or employees of contractors who are operating and managing private correctional facilities (R.C. 2921.44(G)).

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-20-99	p. 27
Reported, S. Judiciary	06-30-99	p. 851
Passed Senate (33-0)	06-30-99	pp. 854-855
Reported, H. Criminal Justice	01-19-00	pp. 1528-1529
Passed House (96-0)	01-26-00	pp. 1556-1557
Senate concurred in House amendments (29-0)	01-26-00	pp. 1358-1359

00-SB12.123/rss

