

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Bill Mason at 1:30 p.m. on March 10, 2003 in Room 313-S of the Capitol.

All members were present except: Representative John Edmonds
Representative Broderick Henderson
Representative Candy Ruff

Committee staff present: Russell Mills, Legislative Research Department
Mary Torrence, Office of Revisor of Statutes
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee: Kim Borchers - Concerned Citizen
Karen Housholder - Concerned Women for America of KS
& written testimony of Guiliano Guevara
Shar Hoffman presented written testimony of Julie Birnbaum
Jeanne Gawdun - Concerned Citizen
Connie Kearns - Private Citizen
Representative Becky Hutchins

Written testimony only
Dr. Bascom Ratliff, Director, Beacon Behavioral Healthcare
Chris Tozier, Founder/Managing Member, Filter Logix

Others attending: See Attached

HB 2420 - An Act enacting the children's internet protection act; prohibiting certain acts and providing remedies for violations. Staff reviewed the bill.

All conferees that appeared today were PROPONENTS appeared today

Kim Borchers spoke as a concerned mother and citizen and was the spokeswoman for many groups (Attachment 1). When "Obscenity" and "Harmful to Minors" laws were passed in the late sixties, the possibilities of minors being exposed to pornography were limited. With the advent of the Internet and its free open access at the public library, minors are at greater risk than ever before. Libraries can not control everything minors log onto, but they can control what type of services they provide minors. The default for the library would be filters for minors. **HB 2420** was crafted based on the recommendations given by the federal court in the federal CIPA case. She addressed the following opposing issues: censorship, protected speech blocked, issue not a problem, parental responsibility, local control, funding and fear of litigation.

Karen Housholder, Human & Child Development Specialist (Attachment 2). She reviewed state and national statistics that show pedophiles use pornography to both stimulate their desire and to de-sensitize children. Citizen funded public libraries and schools have a duty to do their best to keep toxic pornography and pedophiles from exploiting children. **HB 2420** provides the legislation regarding Internet filtering in public libraries and schools.

Ms. Housholder read the testimony of Giuliano Guevara, who had personally experienced the negative effects of pornography on his childhood (Attachment 3).

Shar Hoffman read the testimony of Julie Birnbaum, her niece, who had a negative experience with internet pornography at the Johnson County Central Resource Library (Attachment 4).

Jeanne Gawdun spoke about an incident at the local library regarding internet pornography and a small group of pre-teen and young teen children (Attachment 5). The owners and employees of adult bookstores are responsible for violations to the Harmful to Minors Act, yet public libraries are insulated from prosecution for allowing children exposure to obscenity and pornography on the internet. She urged passage of **HB 2420**.

Connie Kearns testified on behalf of her son (Attachment 6). On a visit to the library with his two children, as they walked past the computers he observed six individuals viewing pornography. When he reported this to the librarian, he was informed that the libraries job was to protect individual's freedom.

Representative Hutchins reviewed the provisions of **HB 2420** (Attachment 7).

- Minor children would be allowed Internet access only on "filtered" computers in libraries.
- Parents or guardians would determine whether a minor would be allowed on an unfiltered computer via written consent.
- Default rule for minors will require minor use of filtered computers only, unless parents or guardians provide otherwise
- Lack of knowledge of age or marital status would not constitute a defense unless the defendant had reasonable cause to believe the minor involved was 18 or more years of age.
 1. Minor exhibited an apparently official document purporting his age was 18 years or more; or
 2. the parent or guardian provided a written consent that the minor could access the Internet without a filtering device

She referenced several court cases regarding protection for children from exposure to obscene and harmful material. She gave rebuttal testimony to the arguments against the bill and requested the committee's favorable support of **HB 2420**. In summary she stated that in the original language they considered requiring that the parents or guardians signature be notarized, however if that issue becomes a stumbling block they would consider dropping "notarized" from the bill.

The Chairman reviewed the fiscal note, stating that research needs to be done on the amount of libraries that already have filters on their systems.

Discussions followed regarding clarification of language in the bill, effectiveness of internet filtering systems, incident reports from the Topeka Library and internet problems associated with the size of library.

In response to a committee request Karen Housholder agreed to provide copies of the Kaiser Institute Internet Filtering study to committee members.

The hearing on **HB 2420** was closed.

Representative Gilbert moved that the February 14, 17, 19, 20 and 24 minutes be approved. Representative Dahl seconded and the motion carried.

Meeting adjourned at 3:00 p.m. with the next meeting scheduled for March 11, 2003.

HOUSE FEDERAL & STATE AFFAIRS COMMITTEE GUEST LIST

DATE March 10, 2003

| <u>NAME</u> | <u>REPRESENTING</u> |
|--------------------|--|
| Marianne O'Connell | Concerned Women for America |
| Diane Meyer | Concerned Women for American |
| Elizabeth Matt | CWA |
| Raeen Hausholder | CWA |
| Connee Kearn | private citizen |
| Jane Gaudin | Concerned citizen |
| Mark Dese Hi | KNEA |
| Shar Hoffman | CWA of KS |
| Margie Hooper | Univ of Kansas |
| Yvonne Pace | KU-Med |
| Aimee Lyon | Concerned Citizens ^{CWA} |
| Barbara Meyer | Inter For Rep. Gatewood |
| Norma Whiteman | Ks. Assn. of School Boards |
| Rosaline Noble | KS Librarij Association |
| DVANE STATE | Library |
| Lim McHenry | The Library Foundation |
| DAVID LEAMON | Topeka/Shawnee County Public Library |
| John Opgaard | Topeka & Shawnee County Public Library |
| Robert Banks | Topeka & Shawnee County Public Library |
| Jim Minges | Northeast Kansas Library System |
| Denise Zund | Doug May |

HB2420
Kim Borchers
2/10/02

Chairman Mason and members of the committee, I am Kim Borchers and I am saddened to stand here before you today. I am here representing many groups, but most importantly I stand here as a concerned mother and citizen. I believe, and so do hundreds of Kansans, that those who receive our hard earned tax dollars should be held to the highest standard with the services they provide to our children. We constantly here the phrase that times have changed and I would agree with that, but the one thing has not--our responsibility to keep minors safe and the role of government to aid us in that process.

When obscenity and HTM (Harmful to Minors) laws were passed in the late sixties, the possibilities of minors being exposed to such material were pretty limited. Since the advent of the Internet and its free open access at the public library, minors are at greater risk than ever before. This reason alone would justify the passage of this piece of legislation. This bill is not to determine whether or not pornography is harmful. That has been proven. This bill brings pornography laws and their enforcement into the 21st century. This bill was specifically crafted based on the recommendations given by the federal court in the federal CIPA case.

Libraries can not control everything minors intentionally or unintentionally log onto, but they can control what type of services they provide minors. That decision will not be left up to the library, but will be determined by their parents. The default for the library will be filters for minors. This is based on the premise that the state has "compelling" state interest to protect minors from sexually explicit material and they are utilizing the most technologically advanced means available.

With my remaining time, I would like to address the arguments given by the opposition. They are as follows: Censorship, Protected Speech Blocked, Issue not a Problem, Parental Responsibility, Local Control, Funding, Fear of Litigation.

Censorship

Tinker v Des Moines School Dist., 393 U.S. 503, 515(1969)

The First Amendment rights of a minor are not "co-extensive with those of adults. A child... is not possessed of that full capacity for individual choice which is presupposition the First Amendment guarantees.

Ginsberg v New York, 390 U.S. 629(1968)

The court ruled that it was constitutionally permissible to accord to minors a more restricted right than that assured to adults to judge and determine for themselves what sexual material they may read or see, and that such restrictions do not invade the area of freedom of expression constitutionally secured to minors.

William W. Van Alstyne, Law professor at Duke University School of Law and the author of a leading textbook on the First Amendment, said "It's a nice question [whether children have a right to indecent material], and the general answer would appear to be no". Van Alstyne went on to add that a library policy of filtering for minors and not for adults would "be" almost certain to win judicial acceptance by the courts," (NY Times, 3/6/98)

Bruce Ennis, the attorney who successfully argued against the Communications Decency Act in the Supreme Court for the ALA and ACLU recently admitted that "almost any court in the world" would uphold library filtering for minors.

Hs Federal & State Affairs

Date: 3-10-03

Attachment # 1

Page 1

The issue of censorship is an issue of semantics. If the library is making the policy or making the decisions, it's called selection, but if a patron questions their decision-making—we are censors.

Their current library policy of “tapping on the shoulder” is censorship. The moment that they might ask someone to get off of a site, they have censored that patron. The libraries should be proactive not reactive.

Protected Speech Blocked

Opponents of filtering sometimes argue that children using filtered Internet access will be at a competitive disadvantage because they will be denied crucial information. Children will become pregnant and catch venereal diseases because they were denied sexual education information. Gay teenagers will commit suicide because they will be unable to reach out to fellow gay teens on the Internet. Yet millions of children are required to use filters in public school settings, and there is not one confirmed instance that any of these things have happened. Of all the millions of children who rely on filtered Internet access in the home and in school, no child has committed suicide, become pregnant, contracted a disease, flunked a class, or even gotten a bad grade on a paper because they were required to use a filter. There is not one shred of evidence to suggest that any person has ever been meaningfully harmed in any way by being required to use filters.

All of these imaginary problems are in contrast to the many real, well-documented incidents of real harm being inflicted on children by unfiltered Internet access in public libraries. Children are being accosted with porn, propositioned by pedophiles, and having their innocence stripped away even further in an already too-grown up world. The failure of libraries to control these problems supports the appropriateness of laws requiring filtering software. *Dangerous Access 2000 Pg.38*

Issue not a Problem

The libraries' definition of a ‘problem’ is not in sync with the average Kansan. Mr. Leamon, director of TSCPL, stood before this body over a year ago and defended a policy at his library that allowed fourteen years olds to check out “Playboy”. If this were not a problem, I would not be here today. I have in my possession eighty-eight written incident reports from the TSCPL. I firmly believe and know that this is just the tip of the iceberg of occurrences in my own area. David Burt, public librarian in Oregon, performed a study to review this issue. Nearly all of the nation’s public library systems were contacted with freedom-of-information requests, but 71 percent ignored the requests. Both the ALA and a number of state libraries (ours included) sent messages to public libraries suggesting ways that libraries could avoid compliance with the requests.

David Biek, Manager for the Tacoma Public Library, performed a yearlong study in his library system. He found the heaviest seekers of explicit material were with males between the ages of 12 and 15. Furthermore, his data found most of all such activities took place in the after-school hours in branch libraries that were heavily used by young people during those hours. Mr. Biek also stated that public librarians should not believe that a lack of patron complaints, both formal and informal, about sexually explicit materials displayed on library computers or the scarcity of staff observations of the same mean that no such behavior is taking place in their libraries. His staff would not have guessed that Internet users accessed pornographic material nearly 28,000 times last year.

When I read such studies, I am convinced that Kansas’s libraries are being utilized in the same manner. We do have a problem. To ignore it does not mean that it does not exist.

Parental Responsibility

Ginsberg v New York

The Supreme Court has uniformly ruled that governmental regulations may also act to **facilitate** parental control over children’s access to sexually explicit material.

Our society does not allow minors to exercise personal discretion over matters that are extremely harmful. Purchase and consumption of alcohol and tobacco are illegal throughout the United States. We do not allow minors to purchase pornography or to enter establishments where pornography is on prominent display. Why should our public libraries be held to a different standard?

Most parents have no idea that their children are having sex, drinking or doing drugs. The libraries would like us to think that the topic of filtered v unfiltered Internet access has been discussed at the kitchen table. When it comes to the safety of children we can not risk making such assumptions. This bill allows parents to get involved in the process.

Libraries would say that filters give a false sense of security. The majority of parents now have a false sense of security with the current library policies in place. They believe that the libraries are acting responsibly on their behalf. Many are not. With proper education, parents can know that nothing is a 100% guarantee, but **good** filters can be effective in blocking the majority of sexually explicit material.

Local Control

Unfortunately, "local control" of libraries is a fiction in many communities. Many library boards are governed by appointed officials, who are never held accountable to the taxpayers for their actions. Additionally, the ALA heavily influences the make-up of many library boards. Often board members are required to become ALA members, and attend ALA-sponsored conferences and workshops where they are schooled in the ALA philosophy.

Let me share with you what some of those philosophies are. According to the Library Bill of Rights, which the majority of Kansas libraries have adopted, *libraries acting within their mission and objectives, must support access to information on all subjects that serve the needs of interests of each user, regardless of the user's age or the content of the material.*

Judith Krug, director of the ALA's office of Intellectual Freedom stated, "Blocking material leads to censorship. That goes for pornography and bestiality, too. If you don't like it, don't look at it." Krug has stated that parents who would choose not to allow their children to view *Playboy* "don't really care about their kids growing up and learning to think and explore." *Dangerous Access 2000, pg.3*

I am gripped with fear when I read such things. These are the folks that our state libraries are taking counsel and direction from. I know that the majority of Kansans would be appalled as well.

Funding

Currently, the majority of libraries in the state provide some type of filtering. They just don't require minors to use those computers. For libraries that do not have filters on their computers, Internet service is not a constitutional right. Should this bill become law, libraries would need to incorporate filters in their cost of doing business. The state's obligation is to create laws that insure the protection of our most vulnerable youth. The library boards' obligation is to ensure such laws are funded by the library budget.

Litigation

Qualified Immunity is given to all members of library boards in the state of Kansas. As long as their policies abide by Kansas law, they do not have to worry about litigation. Responsible libraries do not need to fear lawsuits. When have we ever put a dollar figure on the well being of our children? When have we as a society allowed the fear of litigation to keep us from doing the right or responsible thing?

The arguments of the opposition hold no water. **This bill is a common sense approach in handling new technology. It does not infringe on the rights of adults and gives parents an opportunity to truly be involved in the process.** Our children deserve better from their public libraries. Will you help us as concerned citizens make that happen? I strongly encourage you to support HB2420.



TESTIMONY TO FEDERAL AND STATE AFFAIRS COMMITTEE
KANSAS HOUSE OF REPRESENTATIVES

Members of the Committee:

My name is Karen Housholder, Human & Child Development Specialist. I am with Concerned Women for America of Kansas, a member of the Johnson County Library Board, and most important, a grandma of two beautiful little girls. They are my motivation. Due to the growing concern of child sexual victimization via the Internet I am recommending that you support legislation that will protect children from pornography via Internet access in public libraries and public schools. Last year Missouri enacted a law requiring public libraries and schools with Internet access to filter out such materials. It is now in effect, protecting Missouri children from predators who access pornography to victimize children and protecting them from accessing it themselves. Recent brain research has shown that children and adults can be irreversibly harmed by pornographic images that actually produce a chemical change in the brain. (Dr. Gary Lynch, neuroscientist, "Crimes & Consequences", p. 175)

A sampling of statistics from the Kansas Register for Sexual Offenders, updated 11/02/02, shows that on average, seventy-one percent of the sexual offenses that were committed were committed against children. Couple that with statistics that show pedophiles use pornography to both stimulate their desire and to de-sensitize children and we see that there is a problem that is growing in magnitude every day.

CyberlineTipline was funded by Congress to help fight the sexual exploitation of children. They received over 100,000 reports from the public of sexual exploitation via the Internet since March of 1998. Considering the fact that sex crimes are grossly under-reported, this is disturbing. CyberlineTipline says they are especially disturbed by the growing numbers of children being exploited via the Internet. Each one of these reports represents a child whose life has been scarred forever and who may become an abuser himself.

Government exists to protect the most vulnerable and helpless in our society. Laws act as a protective wall. The Kansas Legislature has done much to put that wall into place. However, there is a need to reinforce the laws in areas where technology is growing at such a rapid pace.

Children who are sexually victimized suffer irreparable harm. "A Quantitative and Qualitative Analysis of Suicidal Preadolescent Children and Their Families" [Child Psychiatry and Human Development. Vol. 25, Number 4. Summer, 1995. Page(s) 751-52] looked at the relationship between child abuse and suicidal tendencies among preadolescents. They reported that sixty percent of these children had been physically or sexually abused by adults.

CONCERNED WOMEN FOR AMER
OF KANSAS

Hs Federal & State Affairs

Date: 3-10-03

Attachment # 2

Page 1

All our laws concerning human sexuality need to be reviewed and where gaps exist in the protective wall they need to be reinforced and built higher. Legislation regarding Internet filtering in public libraries and schools is one area that needs to be addressed now.

Citizen funded public libraries and schools have a duty to do their best to keep toxic pornography and pedophiles from exploiting children. Pedophiles do go to libraries and access pornography and some of them do lure children to exploit them sexually. There's been a 58% increase in in-school rapes in just 5 years. This figure reflects victims that are older than age 12. Statistics have not been kept for younger victims. We have to ask ourselves why is this happening. Now I'm not saying that eliminating these harmful materials in schools and libraries is the whole answer to the problem, but our children shouldn't be assaulted with pornographic images at schools and libraries.

Opponents will argue that filtering either under blocks or over blocks. But an Internet Filtering study just completed by the Kaiser Institute shows that filtered Internet access in public schools and libraries can block pornography effectively without blocking appropriate health sites.

Opponents will also argue that it's costly. Admittedly there is a cost to filtering, but the cost of not doing so is much greater, much of which is not estimable in dollar amounts. Those victimized often face years of expensive counseling, not to mention the lost productivity to the community. What is the cost of a child's life? The cost of rehabilitating sexual offenders is staggering; many sexual predators have been victims of abuse themselves.

As you discuss how to fill in this gap in protection I ask you to consider what a child's life is worth. I know you'd do anything to protect your own little ones.

We are very open to working with you and will supply you with all the facts that we can. Thank you for allowing me to speak with you.

Karen Housholder,
RSVP Coordinator, Concerned Women for America of Kansas

TESTIMONY: KANSAS HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
MARCH, 2003

Members of the Committee:

My name is Giuliano Guevara. I am an active member of Grace Fellowship Church, OP KS. I lead a men's accountability group of about 8 members. I can honestly say that most of the current challenges the majority of men face today is some kind of sexual issue that 9 out of 10 times is manifested in the way of pornography. I would like to give an account of how use and abuse of pornography and illicit sexual materials affects children. I will give you some of my background. I was born in Ecuador and moved to the U.S. in late 1980. I am the third child of 4. The only male child in my family. Referring back to how I was first exposed to pornography I can sincerely say that my Father was responsible. My earliest recollection of ever seeing any pornographic material was when I was about 4 years old and was looking for something in my father's closet. I found a magazine and a deck of playing cards with explicit pornographic pictures of people engaging in sexual acts. To this date I still remember looking at these pictures and feeling almost sick to my stomach. That is how I was first exposed to pornography.

A few years later friends introduced me to some other pornographic material. That in my opinion began a de-sensitization of what normal 8 to 9 year old kids are supposed to think, feel and how they act. I had my first sexual experience at the tender age of 9 years old. That one incident caused an uncontrollable whirlwind of sexual events in my life. I was sexually active from that day on and thought nothing of it. I was programmed by what I saw and learned. I thought I was doing what I was supposed to. During this period our own relatives including our grandmother, father, cousins and even friends of the family sexually abused my sisters and me. I will not account for every incident individually that occurred in our lives, because it would take many pages. I will summarize it all simply by stating that my father left wide open a small door of opportunity through pornography. It caused a series of events that had tremendous consequences in our lives. I have dealt with the ill effects of being sexually exposed at an early age. In my personal life there has been many negative effects that I wish never happened. In my sister's lives the same occurred. They all have experienced the typical feelings of being sexually abused and assaulted. They felt that they deserved it all because of what they were exposed to and how that made them feel.

In my 32 years I have witnessed the negative effects of pornography first and second hand. It is all too common in our society now even more than before with the ease of the Internet. Pornography is now an even bigger adversary of families who are truly trying to protect their children. I am a father of 3 wonderful children whom I love dearly with all my heart. I personally would go to many lengths to ensure that they are not exposed to any material that is pornographic in nature because I know first hand the dangers and the pitfalls. As a child no one protected me or my sisters. I believe that in this wonderful country of ours we serve to protect and protect we must. I believe that our children are being targeted by this sexual industry. It is the reason I am writing you, to plead with you to ensure that you support legislation to protect children from Internet pornography. I am only one person out of many thousands that have been victims of pornography. If I can even help a small percentage by asking you to consider this request it will all be worth it.

Thank you for your time.
Giuliano Guevara
Belton, MO 816-318-8395

Hs Federal & State Affairs
Date: 3-10-03
Attachment # 3
Page 1

House Federal and State Affairs
Members of the Committee:

My name is Julie Birnbaum and I am a junior at Colorado Christian College in the Denver area. I spent the summer of 2002 with my aunt, who lives in Overland Park, Kansas. During that time I did some research work that would occasionally require me to go to the Johnson County Central Resource Library.

One day as I was doing some Internet research on a terminal, I became aware of a man sitting at the computer across from me. He was staring at me strangely. At first I didn't think much of this and looked back at my own computer screen. But when I looked up a moment later he was still looking at me in the same position with the same face. I don't think he had stopped. In the next five minutes or so, the man continued to stare at me across our computers. I would dart my eyes toward his glance to see if he was still looking at me then back down in obvious discomfort and rising anger. It didn't seem to faze him. He kept staring, looking almost pleased and defiant about making me feeling so uncomfortable.

Finally I decided to just leave. I gathered my things trying not to look flustered and marched past him out of the library. When I walked past his monitor I saw he was viewing pornography. Even though nothing had been "done" I felt pretty angry and even violated. It felt like I had been used for a part of his pleasure.

I was very thankful to be walking out of that library in the daytime, and that there were lots of people around, because I frankly didn't feel safe. I didn't expect to feel this way at a public library. I hope you will decide to protect the women and children who love libraries so they don't have to experience what I did, or worse.

Thank you,

Julie Birnbaum
Colorado Christian University
180 S Garrison Ave.
Lakewood, CO 80226

TESTIMONY IN SUPPORT OF HB 2420
(CHILDREN'S INTERNET PROTECTION ACT)

March 10, 2003
JEANNE L. GAWDUN

Mr. Chairman and members of the committee:

Thank you for the opportunity to testify today in support of House Bill 2420, the Children's Internet Protection Act. I speak before you today as a very concerned parent. Due to an incident that happened recently at my local library, I felt that I could not be silent about this issue.

One evening this past February, I took my four boys to the Topeka & Shawnee County Public Library to help my 14-year old son find books for his science project. While my 16-year old son watched my two youngest boys, my 14-year old and I went to the adult non-fiction section to check the computer card catalog.

We went to a table in the main aisle where two computers were located. After accessing the card catalog, I found a couple of books that looked promising. My son went to the shelves to look for one of the books and I went to look on another shelf. Since I did not have much luck with my search, I decided to return to the computer and try a different search topic. As I turned to go to the table, I noticed another lady at the computer that I had been using. I also saw a group of about 4-5 pre-teen and young teen kids standing around one of the computers. They left as I approached the table, so I went to the computer where they had been.

As I looked up at the screen, what I saw shocked me. In full color, there was a photograph of a young woman, naked and in a very un-ladylike position. At the top of the screen was the web address "teen XXX." My first thought was to get rid of the picture immediately, so I clicked the "back" icon. At that point, the picture was reduced to a very small area of the screen on what appeared to be the site's home page. I went to find a library employee to inform him of what the kids had accessed and that I found it to be very inappropriate. The employee I spoke with came over to the computer and said, "Oh, I'll get rid of that for you." He then used the mouse to exit from the website.

While I was grateful that I had been there to make sure none of my sons had seen the pornographic photo, I was nevertheless concerned for those kids who had been able to access it in the first place. How are they going to be affected by what they had seen? The internet pornography industry takes advantage of the "shock factor"—by showing an obscene picture immediately on a website or in an e-mail. They hope to lure people in. Children's minds are a little like a video

Hs Federal & State Affairs

Date: 3.10.03

Attachment # 5

Page 1

I know that there are other computers in the library on which are posted signs stating that web filters are in use, but those computers are situated on tables with chairs where people can sit and spend time surfing the web. This happened on a computer located on a table in the middle of an aisle with no chairs available to encourage long sessions of web-surfing.

Due to my experience at the public library, I decided to testify in support of this bill. Our children are at great risk by having this unlimited access to all that is on the internet. As a "public" library, the services it provides are paid for, at least in part by public moneys. While the Bill of Rights guarantees free speech, it does not say that the government has to provide the ways and means for its citizens to exercise that right. Libraries make decisions all the time about which books to stock, since purchasing every book ever published is costly, not to mention unrealistic. Since providing free internet access is also a service, public libraries have the right to limit what will be available to its patrons.

But most importantly, public libraries have the duty to protect children. The state, by enacting harmful to minors legislation, has shown that it is in our best interest to protect children from obscenity and pornography. We hold the owners and employees of adult bookstores responsible for violations of the Harmful to Minors Act, yet insulate public libraries and their employees from prosecution for allowing children exposure to obscenity and pornography on the internet.

Thank you for your time and consideration of House Bill 2420 and I ask that you vote in favor of this legislation.

March 10, 2003

I am here today to testify on behalf of my adult son because he is unable to leave work today. He is 28 years old and the father of four daughters. Recently, he took his two oldest daughters, ages 3 and 6, to the public library. This is an activity that they do often. However, this will not continue unless some changes are made concerning the use of the computers.

On their last visit my son walked past the computers in the adult section and noticed a picture of a naked woman on the screen. Surprised by this, he decided to walk by each computer to see what was visible on the screens. Six individuals were viewing pornography.

Of course, my son was concerned for the welfare of his children. He talked with a librarian about this situation. He was outraged at her response. The librarian explained that the computers are monitored which obviously was not happening. My son was also told that the library's job was to protect individual's freedom. The library staff did absolutely nothing about this situation.

The library's main concern was revealed in the following question. "What organization are you with?" "Who do you represent?" My son's response was "I am a father! What about my rights to protect my children and be concerned about their welfare? I want to be able to send my middle school or high school children to the library and not be concerned about this type of activity."

As a grandparent who has used the public library both as a teacher and as a parent, this incident was most disconcerting. There must be some protection provided for the children in our communities.

Submitted by: Connie Kearn
 Private citizen
 Topeka, Kansas

Hs Federal & State Affairs

Date: 3-10-03

Attachment # 6

Page 1

BECKY HUTCHINS
 REPRESENTATIVE, FIFTIETH DISTRICT
 JACKSON AND SHAWNEE COUNTIES
 700 WYOMING
 HOLTON, KANSAS 66436
 (785) 364-2612



TOPEKA

HOUSE OF
 REPRESENTATIVES

ROOM 502-S
 STATE CAPITOL
 TOPEKA, KANSAS 66612-1504
 (785) 296-7698

COMMITTEE ASSIGNMENTS
 CHAIR: TOURISM AND PARKS
 MEMBER: EDUCATION
 FEDERAL AND STATE AFFAIRS
 JOINT COMMITTEE ON STATE
 TRIBAL RELATIONS

Testimony on HB 2420
 Children's Internet Protection Act
 March 10, 2003

Mr. Chairman and members of the House Committee on Federal and State Affairs:

Thank you for the opportunity to speak before you today in support of HB 2420.

HB 2420 would contain the following provisions:

- Minor children would be allowed Internet access only on "filtered" computers in libraries
- Parents or guardians would determine whether a minor would be allowed on an unfiltered computer via written consent
- Default rule for minors will require minor use of filtered computers only, unless parents or guardians provide otherwise
- Lack of knowledge of age or marital status would not constitute a defense unless the defendant had reasonable cause to believe the minor involved was 18 or more years of age.
 1. minor exhibited an apparently official document purporting his age was 18 years or more; or
 2. the parent or guardian provided a written consent that the minor could access the Internet without a filtering device

1. You will hear arguments that computer filters block constitutionally-protected speech. Please consider the decisions of the following court cases:

Tinker v Des Moines School District, 393 U.S. 503, 515 (1969)

The first Amendment rights of a minor are not "co-extensive with those of adults. A child ... is not possessed of that full capacity for individual choice which is presupposition of First Amendment guarantees."

Reno v ACLU, 521 U.S. ___, 117 S.Ct 2329 (1997)

The protection of children from exposure to obscene and harmful material is a matter of "compelling" and "surpassing" state interest.

Ginsberg v New York, 390 U.S. 629 (1968)

The court ruled that it was constitutionally permissible to accord to minors a more restricted right than that assured to adults to judge and determine for themselves what sexual material they may read or see, and that such restrictions do not invade the area of freedom of expression constitutionally secured to minors.

Hs Federal & State Affairs

Date: 3-10-03

Attachment # 7

Page 1

In addition, the Supreme Court has uniformly ruled that governmental regulations may also act to facilitate parental control over children's access to sexually explicit material. The majority of the court adopted the legal position that societal availability of pornography erodes public standards of morality and this, in turn, affects all members of the community and in particular our children.

2. You will hear arguments that filters do not block out all obscenity sites. The bill does not specify that filters have to block out a certain percentage of sites, only that computers that minors have access to must have filters.

3. You will hear arguments that terms in the bill are vague. The following is an excerpt from the American Family Association's "A Guide to what One Person Can Do About Pornography."

The legal terms "indecent" and "harmful to minors" correspond to the category of material which has the First Amendment protection for adults but not for children and minors because of the surpassing value of protecting the young. ...

The few who would abolish all prohibitions on pornography argue that the above categories are too vague and the laws should therefore be abandoned as unworkable. Certainly, judgment is required in applying phrases like "indecent" and "obscene," but that is also true of many other areas of law. We routinely expect juries to distinguish between negligence, gross negligence and willful and wanton conduct, without anyone suggesting that the entire law of negligence be abandoned for vagueness. *[emphasis added]*

4. You will hear arguments about civil lawsuits that can be brought against entities that would not comply with this bill. These are publicly funded libraries and I think many taxpayers would like to know their tax dollars are going towards trying to protect minors from harmful materials. If libraries have filters on computers that minors access, there will be no need to fear lawsuits, for they have complied with the law.

5. There will be arguments that passage of this bill would cost libraries hundreds of dollars. Many libraries already have filters on some computers. HB 2420 would require libraries to limit access of minors to those computers that have filters unless their parents have given written permission to do otherwise. If a library does not currently have filters on any of their computers, there would be a cost, but again I would hope that many taxpayers would support their tax dollars going towards providing filters that would protect minors from harmful materials.

Thank you for your attention, and I ask for your favorable support of HB 2420.

Becky Hutchins



50th District Representative

From: "Chris Tozier" <ctozier@filterlogix.com>
To: <hutchins@house.state.ks.us>
Date: Sun, Mar 9, 2003 7:59 PM
Subject: testimony

Representative Hutchins & Kim Borchers

I have attached the testimony document requested. I hope that I have been helpful and the information provided is useful. If there are any questions or comments prior to the hearing on Monday afternoon please try and reach me on my cell phone. I will be traveling Monday morning but will check messages once I have access to the phone. I'll look forward to your response on the information.

Best Regards,

Chris Tozier

FilterLogix

316.208.1088 cell

CC: <tkborchers@ato.net>

March 8, 2003

To: Representative Hutchins

When asked to provide testimony on the subject of Internet content filtering for Libraries in the State of Kansas I found myself recalling all the reasons why I became involved with this issue a number of years ago. I am a founder and managing member of FilterLogix, a content filtering company established and doing business in the State of Kansas. All of the issues being debated on this topic today are the same issues my partners and I dealt with as we contemplated entering into the business of Internet filtering. The line between protecting and or blocking different demographics of Internet users from the massive proliferation of soft core, hard core and violent sex act pornography versus the basic rights of free speech were erupting. Our research into these issues as well as the products on the market provided substantial evidence for either side of the debate.

One must remove personal bias and look at the facts that surround the issues at hand in order to clearly define what if any solution can be provided. The law is clear when it comes to books, magazines, film and other forms of pornography. Those persons under the age of 18 are not allowed to purchase these items and providers of this type of material must restrict viewing and access to the general public. It is also reasonable to expect that distributing or simply viewing these materials in public is and will continue to be restricted. Anyone who has studied this issue and researched pornography on the Internet can confirm that these images are available in seconds without required age verification or fee. Pornography can be found in innocent areas of research for no apparent reason. Many people have made the mistake of typing www.whitehouse.com rather than www.whitehouse.gov and have been shocked at the outcome. An unanswered question is weather the computer screen is different from a periodic or motion picture? If there is consensus that these images should be restricted like any other pornographic medium, the next issue becomes what technology is available, can these images be blocked, and what is the cost both in dollars and freedom.

Filters can and do block pornographic images but many products have accuracy levels so low that pornography remains readily available, which solves nothing. Many filters compound the issue by blocking perfectly acceptable information such as medical information that deals with issues related to sex and anatomy. What good is a filter that doesn't solve the issues of inappropriate material and then removes perfectly legitimate material? Is there a way to accurately filter inappropriate material without removing legitimate information and who should make that decision? Our company and others have tackled this question and I believe solutions have been developed to satisfy both sides of the argument.

Filtering technology has to be pushed passed its original attempt to create black and white lists as a solution. With billions of web pages on the Internet and millions being added and subtracted daily the idea of reviewing these pages and updating a list is not feasible. The only way to meet this challenge is to provide a dynamic filtering environment where web pages are reviewed and filtered in real time. Many web pages change content on a

daily basis and if the filter is unable to understand this change the filter will remain inaccurate.

Predictive modeling has enabled filtering companies like FilterLogix to provide dynamic filtering that meets the needs of different demographics of users and locations. This technology is developed to the point that it can read and understand web page content in a similar way the human brain would. If given two text articles, one from a medical journal dealing with a sexual issue and one from a hardcore periodic, a person can easily distinguish between the two even though the articles may use similar words and references. This technology is called "Word Mapping", not to be confused with "key word" blocking which is static and does not take into account how and with what meaning the word is used. Additionally this technology allows for sensitivity levels to be applied to different users and computers throughout an organization. In the case of libraries different patrons can be assigned levels of access ranging from very restrictive, much like the "G" movie ratings, to increased access of subject matter that is more mature but not yet pornographic, much like the "PG 13", and then moving into totally unrestricted access. All of these levels of filtering can be provided to specific individuals by user name and password, by computer, IP address or building location along with time of day parameters and length of access. Logging features can also be implemented to trace activity or remain anonymous. These decisions are left to the customers and administrators of the filter rather than the software company. In the case of FilterLogix this technology has been developed and tested in many educational environments and is now being marketed nationwide to schools, businesses and Internet service providers.

Most people believe that the issues of pornography on the Internet is overblown and students, employees or general users of any given computer network understand that they shouldn't be viewing inappropriate material on the organization's computers. Statistics however show that the most visited web pages seen through search engines were and remain pornographic web sites with the vast majority of these sites being looked at from 8:00 a.m. to 5:00 p.m. or in other words the work and school day. In most instances system administrators are absolutely amazed at the type and amount of pornography being viewed once shown specific data of Internet usage on their network. In a number of cases we have installed a demonstration system in the morning and before our engineers are back to the office the customer has called to get the engineers back to that location that day to fully integrate the system because of the inappropriate material being viewed. It has been amazing to see how pervasive pornography is in any given organization.

My experience is broad and I have worked with people on both sides of the issue with different levels of concerns. I have come to the personal conclusion that technology does exist that will satisfy almost any view of the issue. If we are willing to invest in technology to provide limitless amounts of information through the Internet we have a responsibility to implement the same parameters of protection as are clearly defined in other forms of media. I personally believe that when the images of pornography move into the realm of bestiality, rape, torture and mutilation of children and adults it can be harmful to anyone, especially children. No one can exaggerate the horrific nature of much of this material and I would encourage anyone involved with this issue to personally view these images and ask themselves if this is appropriate in public or in front of a minor on a

computer screen. Would you personally feel comfortable making this information accessible to a minor? I am a firm believer in free speech and at the same time I respect the laws established to protect the innocent and those that wish not to be exposed to these types of images.

Technology is never perfect but accuracy levels reaching 99% have been developed and costs have been steadily declining. With these facts in mind it is clearly our responsibility to work toward implementation of quality filtering in any governmentally funded organization including libraries. I want to thank Representative Hutchins and everyone involved with this issue for allowing me the opportunity to share this testimony. I would also like to make myself available at any time to continue the discussion of these issues with anyone, regardless of their position on the issues. Only through continued conversations can we find the correct solution.

Respectfully,
Chris Tozier
Founder/Managing Member
FilterLogix

Beacon Behavioral Healthcare

Dr. Bascom W. Ratliff (Director); Dene Moehring, LMSW (Director, Women's Programs)

House Federal and State Affairs

Members of the Committee:

Good afternoon, I am Dr. Bascom Ratliff, a practicing social worker for 33 years, currently practicing in Johnson and Wyandotte counties, with Beacon Behavioral Healthcare. My specialty is the treatment of sex addictions and I have worked with sex offenders, sex addicts, and their victims for more than 30 years. It is for this reason I urge you to pass HB2420.

There is a growing threat of (Internet) pornography. The following information is provided to illustrate the magnitude of the child pornography problem, the difficulty that teens and young adults have in controlling their use of pornography, and some of our experiences treating those who are addicted to pornography.

A. General Information

- In 36 percent of investigation undertaken by the United States Postal Inspection Service since 1997, for instance, pursuit of child pornography turned up actual child molesters.
- In 1998 the FBI opened 700 cases dealing with online pedophilia, most for posting child pornography. By 2000 that figure had quadrupled to 2,856 cases.
- In the United States, the typical pedophile is a well educated, white male, with no criminal record.
- In 1992, U.S. Customs recorded 57 arrests for possession of child pornography transported across borders, 48 indictments, and 69 convictions. By 2000, those numbers had grown to 320 arrests, 299 indictments, and 324 convictions.
- According to a report from the American Medical Association in November 1995, an estimated 61 percent of sexual assault victims are under the age of 18.
- The typical child molester will abuse 380 children in a lifetime.
- The U.S. Justice Department estimates 250,000 to 500,000 pedophiles reside in the United States.
- A Gallup poll found that 1.3 million children were sexually assaulted in 1995.
- The San Diego Police Department in California reports that solicitation of minors for sex online is growing at a rate of 1000 percent per month. 80 percent of first time hits on porn sites are accidental.

B. Our Experience with Teens in Treatment and Internet Pornography

- Between January 2001 and January 2003, 82% of teenaged males coming to Beacon Behavioral Healthcare for evaluation and/or treatment had used Internet pornography. Nearly three-fourths of these had accessed Internet porn at their local county/city library. And, less than a third of them expressed any desire to stop using Internet pornography, even though they acknowledged it was partly to blame for their getting into trouble.
- Increasingly, males between the ages of 16-23, who are coming for evaluation/treatment for sex offenses or substance abuse, are reporting being addicted to pornography. Again, many report the local public library as their secondary source of Internet pornography.
- Children, some as young as six years old, increasingly report viewing Internet pornography at their local library. In a recent survey, 75% of parents said they have also witnessed young children and teens using the library to access adult pornography.
- During treatment for sex addiction and substance abuse, teens and young adults say the most difficult part of the process is stopping their use of Internet pornography. Many report that they will never stop using the Internet to access pornography.

P.O. Box 26374, Shawnee Mission, Kansas 66225

913-710-5744/341-3353 bratliff@kc.rr.com

Clinics: 127th & Switzer, Overland Park, KS (Grace Fellowship)

200 E. Loula, Olathe, KS (First Christian Church)

3730 Metropolitan Ave., KC, KS 66106 (Metro. Ave. United Methodist Church)

27

Beacon Behavioral Healthcare

Dr. Bascom W. Ratliff (Director); Dene Moehring, LMSW (Director, Women's Programs)

In my experience pornography is not victimless. Minimally it causes serious harm to the user and his/her relationships. When the user acts out in criminal behavior the harm to the victim is immeasurable. HB2420 is a good step toward prevention.

Thank you,

Dr. Bascom W. Ratliff, Director
Beacon Behavioral Healthcare

Note: Stats are from several sources.

- a. The National Coalition for the Protection of Children and Families.*
- b. Beacon Behavioral Healthcare case files.*
- c. Department of Justice statistics on child pornography.*

P.O. Box 26374, Shawnee Mission, Kansas 66225
913-710-5744/341-3353 bratliff@kc.rr.com
Clinics: 127th & Switzer, Overland Park, KS (Grace Fellowship)
200 E. Loula, Olathe, KS (First Christian Church)
3730 Metropolitan Ave., KC, KS 66106 (Metro. Ave. United Methodist Church)