

SENATE BILL REPORT

SB 5131

As of January 22, 2003

Title: An act relating to use of library computers to access pornography.

Brief Description: Authorizing a court order to search library computers.

Sponsors: Senators Swecker, Zarelli, Morton, Stevens, Benton, Oke, Roach, Hargrove, Mulliken and Rasmussen.

Brief History:

Committee Activity: Judiciary: 1/30/03.

SENATE COMMITTEE ON JUDICIARY

Staff: Aldo Melchiori (786-7439)

Background: The Fourth Amendment to the United States Constitution provides that a warrant to search and seize may only issue when an officer possesses sufficient reliable, basic, and articulable facts to support a reasonable inference that more probably than not an offense has been committed and that particular evidence of that offense is located in a particular place. There must be evidence that the seized items constitute fruits, instrumentalities, or evidence of crime, but the items do not need to be in the possession of the person suspected of the criminal activity. A search and seizure without a warrant requires the same proof and may be done if there is consent, it is conducted incident to an arrest, the evidence is in plain view, or there are exigent circumstances.

Summary of Bill: The Attorney General or county prosecuting attorney may apply to the superior court for an order authorizing the seizure of library computers used to access web sites or files depicting minors engaged in sexually explicit conduct and other records containing the identity of library patrons who had access to library computers used to access these web sites or files. The application: (a) must be based on facts and circumstances supporting a reasonable belief that the library computers were used to access web sites or files depicting minors engaged in sexually explicit conduct; and (b) that there are no other readily available means to obtain the identity of library patrons who used the library computers to access these web sites or files. The order is valid for 15 days and may be extended for an additional 15 days. Libraries providing internet access must notify users of these provisions.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.