

Thomas Memorial Library Policy Manual

General Use Policy

Purpose

Thomas Memorial Library provides access to all through its collections, programs, facilities and resources. We strive to serve our visitors effectively by providing a welcoming and safe environment. At the same time we ask that visitors help us to maintain an atmosphere that is conducive to inquiry, exploration, and community engagement by following these guidelines.

Entering the library constitutes an implicit acceptance of these guidelines and an acknowledgement of the right of library staff to take any action they see fit while interpreting these guidelines for the safety and enjoyment of all visitors and staff. Library staff are expected to treat visitors with courtesy, dignity, and respect. Similarly, library visitors are expected to behave in a manner such that their actions do not interfere with the functions of the library or with the convenience and comfort of other visitors.

The library is open for specific and designated civic, educational and cultural uses, including reading, studying, writing, participating in scheduled library programs, and using library materials. We welcome everyone to:

- Read, work, study, and enjoy our environment within the limits of its intended use.
- Feel safe and respected while using the library.
- Find curated materials of interest to the community, in good condition, and access to accurate and relevant sources of information through our resources.
- Attend library programs and events.

No individual may engage in inappropriate conduct on the premises of the library, when using library facilities, or when participating in library programs (virtual or in-person).

Intellectual Freedom

The staff and administration of Thomas Memorial Library support the principles of intellectual freedom. The library endorses unrestricted First Amendment freedoms for all its visitors. The library imposes no restrictions on visitor access to constitutionally protected information.

We uphold the principles of intellectual freedom and resist all efforts to censor library resources. We respect, within the limits of the law, each Library visitor's right to privacy and confidentiality with regard to information sought or received and resources consulted, acquired, or transmitted.

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For more information, see **Appendix A: ALA Library Bill of Rights, ALA Freedom to Read Statement, ALA Freedom to View Statement, ALA Office of Intellectual Freedom.**

Enforcement

Failure to follow these guidelines will result in the following actions:

- Behaviors will be addressed as outlined in the Progressive Action Matrix.
- Library visiting privileges may be suspended for an extended time period at the discretion of the Library Director.
- Library staff may call local law enforcement to provide assistance in enforcing these guidelines. Illegal activity in the library may result in arrest and/or prosecution in addition to suspension of library privileges.
- Visitors who return to the library before a suspension has ended may be charged with trespassing.

Additional Information

- In case of an emergency, promptly follow all library staff instructions.
- Illegal activity of any kind will be reported immediately to law enforcement.
- In any situation involving the safety of children or vulnerable adults, and specifically whenever the parent or caregiver or police are contacted, staff will complete an Incident Report.

Prohibited Conduct and Activities

In consideration of all library visitors and staff, the following activities are not allowed:

- Leaving a vulnerable adult or a child under the age of 13 unattended. For more details, **Safe Child and Vulnerable Adults Policy.**
- Attending a program for children, or using a designated children's computer without being accompanied by a child (0 to 12.)
- Using the designated teen area during posted teen hours or attending a program for teens, without being accompanied by a teen (13-17) or without a demonstrated need to access the teen collection.
- No food or drink is allowed at computer stations. Computers are located in public areas and shared by people of all ages and backgrounds. Visitors are expected to use library computers in a responsible and courteous manner. For more details, refer to the **Computer Use and Internet Policy.**
- Viewing or displaying inappropriate, sexually explicit, or illegal material in the library. For more details, refer to the **Computer Use and Internet Policy.**

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- Disturbing others by talking loudly or with other noisy activity.
- Failure to use headphones when listening to audio on any electronic devices.
- Engaging in extended conversations using a cell phone except in designated areas.
- Sleeping—as a safety precaution sleeping individuals will be awakened.
- Eating—except in the designated areas, or food provided at library-sponsored events. Eating on the floor is not allowed. For more details, refer to the **Food & Beverages Policy**.
- Drinking—except for covered beverages in the designated areas, or beverages provided at library sponsored events. For more details, refer to the Food & Beverages Policy.
- Presenting offensive and pervasive odor or odors that may make the use of the library difficult for others.
- Entering the library without shoes or adequate clothing.
- Bringing in animals other than service animals recognized under *Titles II and III of the Americans with Disabilities Act (ADA)*.
- Leaving pets unattended and/or unleashed in outdoor areas near the library, including but not limited to entryways, pathways, lawns, and outdoor seating areas.
- Bringing carts, bicycles, scooters, or similar items into the library or leaving them at the entrance--except when the vehicle is: used by disabled people or is used to carry an infant/child.
- Congregating in groups on the floor of the library, except in the baby/toddler area or during baby/toddler programming, where developmentally appropriate play occurs. Older children, teens, and adults will be asked to utilize the many seating options available.
- Blocking aisles, shelves or any thoroughfare with personal items, or leaving items unattended at any time--except to use the restroom for a reasonable amount of time.
- Putting feet on library furniture, rearranging the furniture or using the furniture for other than its intended purpose.
- Viewing or displaying inappropriate, sexually explicit, or illegal material in the library. For more details, refer to the **Computer Use and Internet Policy**
- Selling, soliciting or using illegal drugs on library premises.
- Consuming alcohol in the library building.
- Soliciting money, donations or signatures, or the distribution or posting of any printed material without library approval. (See **Bulletin Board Policy**)
- Smoking, or using tobacco products and other controlled substances, including using electronic and smoke-free cigarettes (vaping) inside or within 50 feet of the library building.
- Vandalizing library facilities, equipment or materials.

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- Removing library materials from the building without checking them out.
- Engaging in sexual conduct or lewd behavior.

Progressive Action Matrix for Addressing Prohibited Behaviors

Type	Examples of Behaviors	Library Response <i>First Occurrence</i>	Library Response <i>Second Occurrence</i>	Library Response <i>Repeat Occurrences</i>
Emergency Incident	Threat of physical violence to visitors or staff. Accessing illegal material on the internet (e.g., child pornography). Other violations of law.	Call Police. Obtain Police Report. File Incident Report. Ban for one year.	Call Police. Obtain Police Report. File Incident Report. Extend ban as determined by Library Director.	Call Police. Obtain Police Report. File Incident Report. Extend ban as determined by Library Director.
Serious Incident	Harassment of library visitors or staff. Unsafe or hazardous behavior.	Call Police. Obtain Police Report. File Incident Report. Ban visitor 90 days.	Call Police. Obtain Police Report. File Incident Report. Ban for one year.	Call Police. Obtain Police Report. File Incident Report. Extend ban as determined by Library Director.
Disruptive Behavior	Violations of this policy that are not prohibited by law and do not create an immediate threat or unsafe condition, e.g., cell phone use, eating or drinking, loitering.	Give oral warning citing policy.	Provide a written copy of policy. Management level staff will ask the visitor to leave the building for the day. File Incident Report.	Ban visitor for 30 days. File Incident Report. Subsequent violations, ban determined by Library Director.

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Type	Examples of Behaviors	Library Response <i>First Occurrence</i>	Library Response <i>Second Occurrence</i>	Library Response <i>Repeat Occurrences</i>
Unattended Children or Vulnerable Adults	<p>Parent or guardian who is not staying with a child under the age of 13.</p> <p>Child under age of 13 who is left alone at the library by parent or guardian.</p> <p>Vulnerable Adult left alone by caregiver.</p>	<p>Give oral warning citing policy.</p> <p>Explain policy to the caregiver.</p> <p>Monitor for compliance.</p>	<p>Provide a written copy of policy.</p> <p>Management level staff will ask visitor to leave the building for the day.</p> <p>File Incident Report.</p>	<p>Ban visitor 30 days.</p> <p>File Incident Report.</p> <p>Subsequent violations, ban determined by Library Director.</p>
Violation of Acceptable Use Policy for the internet	Violations of Library Computer & Internet Use Policy.	<p>Give oral warning citing policy.</p> <p>Monitor for compliance.</p>	<p>Provide a written copy of policy.</p> <p>Visitor's computer session is terminated.</p> <p>File Incident Report.</p>	<p>Visitor is barred from computer and internet use for 30 days upon review by Library Director.</p> <p>File Incident Report. Director may reinstate internet access before fulfillment of 30 days.</p>

Revised: March 18, 2021

Voted for recommendation of approval by the TML Committee on: April 29, 2021

Adopted with Town Council approval on:

Policy Review: This policy shall be reviewed at least every 2 years.

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Food and Beverage Policy

Purpose

The Thomas Memorial Library strives to create a welcoming, clean and comfortable environment for all to enjoy. Consistent with this goal, food and beverages are allowed in the library on a limited basis and should be consumed in a considerate and responsible manner. Food and beverages pose a potential risk to library collections, equipment, and furnishings, in addition to presenting a burden to custodial staff when they are not properly disposed of. In order to protect our resources and facilities from damage, we ask that visitors act responsibly when consuming food and beverages in the library. To meet this goal, the library has adopted the following specific guidelines for the consumption of food and beverages inside of the building.

- Library visitors must:
 - Immediately report spills to staff
 - Discard food and beverages refuse in trash containers
 - Leave all areas clean for use by others
- Consumption of food is **limited to pre-packaged snacks or wrapped items that are consumed by an individual. Inside the library is not an appropriate place to enjoy full meals.** Hot, smelly or messy foods such as pizza, burgers, and fries, are not allowed.
- Please be courteous to fellow visitors and avoid eating foods with common allergens and/or strong odors.
- Beverages are allowed if they are in a spill-proof cup, container with a secure lid, a can, or plastic bottle with a screw top. Open containers are not allowed.
- No alcoholic beverages are allowed in the library.
- If visitors' food or beverage consumption is disruptive to others, they will be asked to remove it from the library.
- No take-out meals or food deliveries are allowed, unless part of an official library-sponsored event.
- Food and beverages are permissible for special functions in library meeting rooms as authorized by the Library Director. Rules for food and beverages are detailed under the library's Meeting Room Policy.
- Certain areas of the library may be designated as "No Food or Beverages" zones.
- Food and beverages are not permitted while using library computers, printers, photocopiers, or other electrical equipment.
- Unattended food and beverages openly displayed in public areas will be discarded by staff.
- Library visitors are liable for any damage to library materials or equipment caused by their food or beverages.
- Visitors violating this policy will be asked to remove their food and beverages from the library.

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Food and Beverage Policy

Staff

Food and beverages are allowed in staff areas and staff offices; cooked food with a strong odor should be consumed in the staff kitchen only. Beverages in closed containers are allowed when not left in public view at the public service desks. Snacks are not allowed at the public service desks.

Public Health Situations

In the event of a public health situation that impacts safe use of the Library building by the public, food and beverages may be temporarily banned in accordance with protocols issued by appropriate governing authorities (municipalities and/or governing boards) with the health and safety of library staff and visitors as the primary objective.

Revised: March, 2021

Voted for recommendation of approval by the TML Committee on: April 29, 2021

Adopted with Town Council approval on:

Policy Review: This policy shall be reviewed at least every 2 years.

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Computer Use and Internet Policy

Purpose

The Thomas Memorial Library is pleased to provide public use computers, as well as free public internet access in order to ensure universal access to this vast and vital source of information and communication. This policy exists in order to ensure the fair and reasonable use of library computers and internet resources. By accessing the internet using library network connections, or by accessing the internet inside library facilities using other public or private wireless networks, visitors agree to all terms and conditions expressed in this policy.

The internet and online environment consists of information on a wide range of topics, provided by millions of individuals and organizations around the world. Library visitors are advised to exercise judgement and discrimination when evaluating the usefulness and reliability of material found on the internet. Not all information available on the internet is accurate, complete, up-to-date, lawful, or philosophically acceptable to all individuals. The library has no control over the information found on the internet, and cannot be held responsible for its content.

The library assumes no responsibility and shall have no liability for any direct, indirect or consequential damages arising from providing computer and internet access to the public. In addition, visitors are responsible for:

- Any consequences that arise from unlawful or prohibited activities while using library equipment.
- Saving their own work on a mobile storage device such as a flash drive.
- Evaluating the accuracy of the material found on the internet.

General Procedures

- The library provides internet access in two ways: public computer stations and an unsecured wireless network available to visitors with their own wireless devices. This policy applies to the use of each of these services.
- Computers are available from the time the library opens until 15 minutes before closing.
- Computers include USB ports for using flash drives. visitors may bring their own flash drives to save their files. Files saved to a library computer's desktop are automatically deleted when the computer is restarted.
- Security measures have been taken to prevent the unintentional or intentional changing of operating system or software settings.
- Computer use is limited to 2 sessions of 60 minutes per day. Sessions may be extended by permission should the computers be available; if there is a queue for use, visitors will be expected to relinquish their computer when their time limit is reached.

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- Should visitors wish to use sound on any computer or wireless device, headphones are required.
- Black & white printing is available for a fee. The library does not offer color printing services.
- Limited scanning services are free; but library staff cannot assist with extensive scanning needs.
- All copying and scanning using library equipment must comply with copyright laws.
- Library staff's availability to help visitors with basic computer use is limited. Additionally, library staff may not have knowledge of all library computer programs, nor will they be familiar with how to use all websites. Library staff can assist as time and staffing permits, but visitors must have basic computer skills and are encouraged to attend one of the library's instructional technology programs to further their technology literacy skills.
- Basic word processing software is available on each public desktop computer. Staff can offer a visitor general help with word processing, but cannot help compose personal documents or research papers.

Children (minors under the age of 13)

Children under the age of 13 are allowed to use the computers located in the Children's Room. As with other library materials, access or restriction of a child on the internet is the parent or guardian's responsibility. It is recommended that parents and guardians both supervise their children's use of the internet and discuss safe internet practices with their children. The library does not act *in loco parentis* (in the place or role of a parent or guardian) regarding the supervision or restriction of children's use of the computers or the internet.

- Parents or caregivers of minor children are expected to supervise their child's computer and internet sessions. Library computers in the Children's Room are solely for use by children up to and including age 12.
- Parents or guardians are solely responsible for what their children access via the internet.
- Parents are cautioned that unsupervised children may see things that the parent finds objectionable.
- Children should be accompanied by a parent or caregiver or should be provided with parental guidelines for internet use.
- Library staff are not responsible for determining what is acceptable for children, but may intervene if a child violates general policies or procedures.

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Teens (minors 13 - 18 years old)

Teens may use the computers in the Adult Department, with the understanding that library employees do not assume the role of a parent or caregiver in determining what is and is not acceptable to view. Again, staff may intervene if a minor violates general policies or procedures.

Conduct

The computer and internet resources offered by the library are to be used in accordance with principles of respect for other visitors of the network and equipment. Therefore, visitors may not:

- Attempt to access or tamper with settings or files on the hard disk by modifying, deleting or in any way altering them.
- Unplug, remove, or otherwise modify library equipment.
- Use software other than that provided and installed by the library.
- Make unauthorized entry into other networks or systems, or in any other way violate computer system security.
- Violate the privacy of others, harass other visitors, or send harassing or threatening messages
- Display sexually or violently graphic material on the computer screen; this is considered offensive behavior, and is a violation of Thomas Memorial Library's General Use Policy.
- Refuse to leave a computer after being suspended or asked to leave.
- Disrupt or obstruct the work of others.
- Use a cell phone for extended conversations while at the public computers.
- Play audio without headphones while at the public computers.
- Bring food or drink near the public computers or the public computing desks.

Safety and Privacy

Library visitors are warned that the internet is not a secure medium and that privacy of email and other communications is not guaranteed. Though the library employs antivirus software, it cannot guarantee that its server or any web site accessed by internet visitors is free of viruses or other harmful components. Visitors should assume that their information may not be private. The library is not liable for the loss or compromise of confidential or sensitive information or for any and all damages resulting from that loss or compromise.

It is solely the responsibility of the wireless device owner/visitor to provide antivirus protection, and to configure personal equipment with appropriate security settings to control access from

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other wireless devices within library facilities and the internet itself. Wireless visitors assume all risks in this regard.

Freedom of Access

The library adheres to the American Library Association's policy statement *Access to Electronic Information, Services, and Networks: An Interpretation of the library Bill of Rights*, which supports the right of individuals to choose Library materials for themselves, including those in electronic formats. As such, the library does not monitor and has no control over or responsibility for the information accessed through the internet.

The library must balance the goal of supporting intellectual access with that of maintaining a welcoming environment. Unless a visitor is viewing material that is harmful or obscene, staff will not interfere with a visitor's right to privacy. Equally, in the case that a visitor's use of the internet, computers, and/or devices interferes with the ability of the library to provide a welcoming environment for the public, they may be asked to change their behavior.

CIPA Filtering

Thomas Memorial Library provides Internet access through our affiliation with the Maine School and Library Network (MSLN).

To continue to receive funding for Internet access through the Federal E-rate program as administered by Network Maine for the Maine School and Library Network (MSLN) the library is required to: (a) prevent visitor access over its computer network to, or transmission of, inappropriate material via Internet, electronic mail, or other forms of direct electronic communications; (b) prevent unauthorized access and other unlawful online activity; (c) prevent unauthorized online disclosure, use, or dissemination of personal identification information of minors; and (d) comply with the Children's Internet Protection Act [Pub. L. No. 106-554 and 47 USC 254(h)].

Key terms are as defined in the **Children's Internet Protection Act** (see **Appendix B.**)

Access to Inappropriate Material

To the extent practical, technology protection measures (or "internet filters") shall be used to block or filter Internet, or other forms of electronic communications, access to inappropriate information.

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Specifically, as required by the **Children's Internet Protection Act**, blocking shall be applied to visual depictions of material deemed obscene or child pornography, or to any material deemed harmful to minors.

Subject to staff supervision, technology protection measures may be disabled for adults or, in the case of minors, minimized only for bona fide research or other lawful purposes.

Inappropriate Network Usage

To the extent practical, steps shall be taken to promote the safety and security of visitors of the Thomas Memorial Library online computer network when using electronic mail, chat rooms, instant messaging, and other forms of direct electronic communications.

Specifically, as required by the **Children's Internet Protection Act**, prevention of inappropriate network usage includes: (a) unauthorized access, including so-called 'hacking,' and other unlawful activities; and (b) unauthorized disclosure, use, and dissemination of personal identification information regarding minors.

Legality

Use of the library's internet and equipment for transmission, dissemination, and/or duplication of information is regulated under various state and federal laws. The library expects all visitors to comply with such laws, including but not limited to those related to copyright, computer hacking, and child pornography. Laws governing the use of the library's public internet computers and networks include, but are not limited to the following (see **Appendix B** complete text:)

- Children's Internet Protection Act (CIPA)
- Computer Fraud and Abuse Act (CFAA)
- Digital Millennium Copyright Act (DMCA)

Violation

Violation of this policy or the library Use Guidelines Policy may result in suspension or revocation of library privileges. Use of the computers for illegal activity may also be subject to prosecution by the appropriate authorities.

Revised: March, 2021

Adopted by TML Committee on: April 29, 2021

Approved by Town Council on:

Review Schedule: This policy shall be reviewed at least every three years.

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Safe Child and Vulnerable Adults Policy

Purpose

The Thomas Memorial Library strives to provide a comfortable, safe and welcoming environment for children of all ages. The library is a public building, with staff trained to provide public library services, including programs and resources offered to make the library enticing to children and to help them develop a love of reading, offer access to educational resources, and developmentally appropriate programming. However, busy public buildings are not secure places for children to be left alone.

Appropriate library behavior (as outlined in the *General Use Policy*) is expected of all library patrons, regardless of age. It is important for everyone to have the appropriate supervision and support to enjoy the library, particularly in regards to the safety of children, as well as vulnerable adults. The *Safe Child and Vulnerable Adults Policy* clarifies additional ways that safety is maintained in regards to use of the library.

Disruptive behavior (as outlined in the *General Use Policy*) is grounds for being asked to leave the library at the discretion of the library staff. Regardless of age, behavior is considered disruptive when it disturbs the normal use of the library by other patrons, interferes with the staff in the performance of their duties, or endangers the well-being of anyone, including oneself.

Definitions

An unattended child is defined as:

- A child under the age of thirteen (13) who is not accompanied by a parent, legal guardian, custodian or caregiver age 18 or older;
- A child between the ages of thirteen (13) and (16) who is using the library independently, but is not picked up by closing time and needs assistance procuring transportation;
- A child under the age of eighteen (18) who appears to need staff help beyond assistance with normal library service, and is not accompanied by a parent, legal guardian, custodian or caregiver age 18 or older.

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A vulnerable adult is defined as:

- An adult who is unable to reasonably care for himself/herself in an emergency situation. This includes adults who are mentally or physically challenged and who need staff help beyond assistance with normal library services and are not under the direct supervision of a parent, legal guardian or caregiver.
- An adult not picked up by closing time who is in need of assistance in procuring transportation.

Safe Child Policy

- The library is not equipped—nor is it the library’s role—to provide long-or short-term childcare. The responsibility for the care, safety, and behavior of children lies with their parents or caregivers, both within the library building and on library grounds.
- Library staff cannot assume responsibility for children’s safety and comfort when they are unattended.
- Children, or persons of any age, should not play, run or otherwise act in an unsafe manner in the library’s parking lot area. As with all behavior, inappropriate use of the parking lot area and the library grounds is the responsibility of parents/caregivers.
- Staff does not monitor the arrival or departure of any child from a program or the building and cannot report on their whereabouts.
- Children must know how to reach an adult in case of an emergency, and both child and adult should be aware of library hours.
- Parents are responsible for the safety of their children who may visit the Cumberland Farms or other area establishments to purchase snacks, candy, or soda; children and parents should be aware of the kinds of food and beverages that are allowed inside the library, as outlined in the **Food and Beverage Policy**.
- Library staff may not transport children to any location, even by request of the parent/caregiver.

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Levels of Supervision Required

Age of Child	Support and Supervision
Under 6	Must be directly supervised by a parent or responsible caregiver age 18 and over at all times while in the library.
Ages 6 - 8	May enjoy the children's room while parents or caregivers briefly visit other areas of the library, but the parent or caregiver must remain in the library. A child may attend a program in the program room by him/herself; however, the parent/caregiver must be ready to meet that child promptly when the program ends or have made arrangements clear with the child regarding leaving the library with a designated caregiver. Library staff cannot monitor children to ensure they leave with the proper caregiver.
Ages 9 to 12	May enjoy any part of the library while parents or caregivers visit other areas of the library, but the parent or caregiver must remain in the building.
Ages 13 and up	May be left unattended, providing they understand and follow library rules and observe proper conduct. Children are subject to the same rules of behavior as other patrons and the same consequences, including being asked to leave the building and/or premises. <i>If a parent or caregiver does not want their child to leave the library unattended, that child should not be left in the library alone.</i> All minors must also have the phone number of a parent/caregiver who may be contacted in an emergency. The library Director will send a follow-up letter to the parent(s) documenting any incident where a child is left

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	alone, not picked up on time or where the child created a problem and library staff could not reach a parent or guardian.
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Vulnerable Adults Policy

- Vulnerable adults who can understand and follow the **General Use Policy** and who can care for themselves are welcomed to be in the library unattended. They should have contact information for someone who can assist them in an emergency.
- Adults 18 years of age or older who are functionally, mentally, or physically unable to reasonably care for themselves in an emergency situation should not be left alone or unattended in the library, including at library programs.
- Any adult who is unable to provide for their own personal care needs and/or manage their own behavior without caregiver assistance should not be left in the library without a responsible caregiver.
- Any adult who needs help from staff beyond assistance with normal library services should not be left in the library without a responsible caregiver.
- Regardless of cognitive ability/developmental age, a vulnerable adult cannot be left alone in the children's department or teen area.
- Any time vulnerable adults are left unattended in the library, staff will attempt to discuss this policy with the caregiver.
- Library staff may not transport vulnerable adults to any location, even by request of the caregiver.

General Emergencies

- During library hours, when staff believe that the safety of an unattended child or vulnerable adult is in doubt, library staff will attempt to contact the caregiver before calling 911.
- In the case of an immediate safety concern, staff will contact 911 immediately and then attempt to contact the caregiver.

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At Closing

- Library employees will notify the library Supervisor on duty of any unattended child or vulnerable adult still present in the library 10 minutes prior to closing.
- Staff will help contact a parent, guardian, or caregiver for a ride.
- If an unattended child under 13 or a vulnerable person of any age has not successfully contacted a parent, guardian, or caregiver at closing or that caregiver has not arrived by closing, staff will contact the police at the non-emergency number.

Procedures

Who is Unattended	Procedure
Child under age 6	<p>A small child who is left unattended and is frightened should be taken to the children's area and comforted while another staff member tries to find the child's caregiver. When the responsible caregiver is located, our policy should be explained.</p> <p><i>Supervisor:</i> If a child under the age of 6 continues to be left unattended by a caregiver in the building and has been approached by staff, a paper copy of the policy will be presented and the child and caregiver will be asked to leave the library for the day by an appropriate supervisory staff member.</p>
Child ages 6-9	<p>Child will be approached by staff to determine if a caregiver is present. If not, the caregiver will be notified by supervisory staff by phone that it is unacceptable to leave a child of this age unattended at the library, and the policy will be explained.</p> <p>If the child continues to be left at the library unattended, the Director will be notified and will notify police.</p>
If a child 9 years old or younger	<p>If a child 9 years old or younger is left unattended and the responsible caregiver cannot be located within a 15 minute search by library staff or contacted by phone,</p>

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	the police will be called by a supervisory staff member. Staff will not transport children under any circumstances.
Children under 16 at closing	Unattended children should be asked 15 minutes before closing if they have a ride. After the library closes, the age of the child should determine whether or not to contact police. If police are called, 2 staff members should stay with the child until their arrival.
Vulnerable adults	In the event that a staff member has concern for the safety of a vulnerable adult who does not appear to have someone to assist them or has concern for the safety, security, and wellbeing of the general public or library property because of actions by or behavior of a vulnerable adult, the following actions will be taken: staff will attempt to locate a caregiver to advise them of the policy and level of supervision and support required; supervisory staff will be notified and will provide any further follow up, presenting a copy of the written policy. If no such person is available or if the situation warrants immediate action, the police department will be called to assist.

Follow Up

After normal procedures have been followed, especially if repeated incidents occur or an incident report is filed, a letter will be sent by the Library Director directly to caregivers stressing the library's concern for the safety of unattended children and the importance of developing alternative care options. Similarly, a letter will be sent to managing programs or group homes if there are concerns about the safety of vulnerable adults. Repeated violations of the policy will result in further action (please see the **General Use Policy**.)

Staff Scripts

This is language provides guidance for staff in situations where a child is left unattended:

Child under age 6, caregiver in building: The library is a very busy place and our staff cannot be responsible for keeping an eye on your child. It's really not safe for them to

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be out of your sight for any amount of time, we ask that you please enjoy the library together at all times.

Child under the age of 13 who arrives unattended, contacting caregiver by phone: This is _____ from the library. Your child _____ is here with us. The library is a very busy place and our staff cannot be responsible for keeping an eye on your child. It's just not safe for him/her to be here alone. Now, our policy is that children 13 and under must be accompanied in the library by a parent or guardian. Will someone be able to come join them at the library or pick them up?

Approaching an unattended child: Hi! How are you? Can I help you find anything? Is there an adult here with you today? Could you help me find them so I can remind them of some rules to keep everyone safe at the library? Thanks!

Revised: April 14, 2021

Voted for recommendation of approval by the TML Committee on: April 29, 2021

Adopted with Town Council approval on:

Policy Review: This policy shall be reviewed at least every 2 years.

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APPENDIX A

ALA Library Bill of Rights¹

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

- I. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.
- II. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.
- III. Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.
- IV. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.
- V. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.
- VI. Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.
- VII. All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use. Libraries should advocate for, educate about, and protect people's privacy, safeguarding all library use data, including personally identifiable information.

Adopted June 19, 1939, by the ALA Council; amended October 14, 1944; June 18, 1948; February 2, 1961; June 27, 1967; January 23, 1980; January 29, 2019.

Inclusion of "age" reaffirmed January 23, 1996.

1. "Library Bill of Rights", American Library Association, June 30, 2006.
<http://www.ala.org/advocacy/intfreedom/librarybill>
Document ID: 669fd6a3-8939-3e54-7577-996a0a3f8952

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Although the Articles of the *Library Bill of Rights* are unambiguous statements of basic principles that should govern the service of all libraries, questions do arise concerning application of these principles to specific library practices. See the documents designated by the Intellectual Freedom Committee as [Interpretations of the Library Bill of Rights](#).

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ALA Freedom to Read Statement²

The freedom to read is essential to our democracy. It is continuously under attack. Private groups and public authorities in various parts of the country are working to remove or limit access to reading materials, to censor content in schools, to label "controversial" views, to distribute lists of "objectionable" books or authors, and to purge libraries. These actions apparently rise from a view that our national tradition of free expression is no longer valid; that censorship and suppression are needed to counter threats to safety or national security, as well as to avoid the subversion of politics and the corruption of morals. We, as individuals devoted to reading and as librarians and publishers responsible for disseminating ideas, wish to assert the public interest in the preservation of the freedom to read.

Most attempts at suppression rest on a denial of the fundamental premise of democracy: that the ordinary individual, by exercising critical judgment, will select the good and reject the bad. We trust Americans to recognize propaganda and misinformation, and to make their own decisions about what they read and believe. We do not believe they are prepared to sacrifice their heritage of a free press in order to be "protected" against what others think may be bad for them. We believe they still favor free enterprise in ideas and expression.

These efforts at suppression are related to a larger pattern of pressures being brought against education, the press, art and images, films, broadcast media, and the Internet. The problem is not only one of actual censorship. The shadow of fear cast by these pressures leads, we suspect, to an even larger voluntary curtailment of expression by those who seek to avoid controversy or unwelcome scrutiny by government officials.

Such pressure toward conformity is perhaps natural to a time of accelerated change. And yet suppression is never more dangerous than in such a time of social tension. Freedom has given the United States the elasticity to endure strain. Freedom keeps open the path of novel and creative solutions, and enables change to come by choice. Every silencing of a heresy, every enforcement of an orthodoxy, diminishes the toughness and resilience of our society and leaves it the less able to deal with controversy and difference.

Now as always in our history, reading is among our greatest freedoms. The freedom to read and write is almost the only means for making generally available ideas or manners of expression that can initially command only a small audience. The written word is the natural medium for the new

2. "The Freedom to Read Statement", American Library Association, July 26, 2006.

<http://www.ala.org/advocacy/intfreedom/freedomreadstatement>

Document ID: aaac95d4-2988-0024-6573-10a5ce6b21b2

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idea and the untried voice from which come the original contributions to social growth. It is essential to the extended discussion that serious thought requires, and to the accumulation of knowledge and ideas into organized collections.

We believe that free communication is essential to the preservation of a free society and a creative culture. We believe that these pressures toward conformity present the danger of limiting the range and variety of inquiry and expression on which our democracy and our culture depend. We believe that every American community must jealously guard the freedom to publish and to circulate, in order to preserve its own freedom to read. We believe that publishers and librarians have a profound responsibility to give validity to that freedom to read by making it possible for the readers to choose freely from a variety of offerings.

The freedom to read is guaranteed by the Constitution. Those with faith in free people will stand firm on these constitutional guarantees of essential rights and will exercise the responsibilities that accompany these rights.

We therefore affirm these propositions:

1. *It is in the public interest for publishers and librarians to make available the widest diversity of views and expressions, including those that are unorthodox, unpopular, or considered dangerous by the majority.*

Creative thought is by definition new, and what is new is different. The bearer of every new thought is a rebel until that idea is refined and tested. Totalitarian systems attempt to maintain themselves in power by the ruthless suppression of any concept that challenges the established orthodoxy. The power of a democratic system to adapt to change is vastly strengthened by the freedom of its citizens to choose widely from among conflicting opinions offered freely to them. To stifle every nonconformist idea at birth would mark the end of the democratic process. Furthermore, only through the constant activity of weighing and selecting can the democratic mind attain the strength demanded by times like these. We need to know not only what we believe but why we believe it.

2. *Publishers, librarians, and booksellers do not need to endorse every idea or presentation they make available. It would conflict with the public interest for them to establish their own political, moral, or aesthetic views as a standard for determining what should be published or circulated.*

2. "The Freedom to Read Statement", American Library Association, July 26, 2006.

<http://www.ala.org/advocacy/intfreedom/freedomreadstatement>

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Publishers and librarians serve the educational process by helping to make available knowledge and ideas required for the growth of the mind and the increase of learning. They do not foster education by imposing as mentors the patterns of their own thought. The people should have the freedom to read and consider a broader range of ideas than those that may be held by any single librarian or publisher or government or church. It is wrong that what one can read should be confined to what another thinks proper.

3. *It is contrary to the public interest for publishers or librarians to bar access to writings on the basis of the personal history or political affiliations of the author.*

No art or literature can flourish if it is to be measured by the political views or private lives of its creators. No society of free people can flourish that draws up lists of writers to whom it will not listen, whatever they may have to say.

4. *There is no place in our society for efforts to coerce the taste of others, to confine adults to the reading matter deemed suitable for adolescents, or to inhibit the efforts of writers to achieve artistic expression.*

To some, much of modern expression is shocking. But is not much of life itself shocking? We cut off literature at the source if we prevent writers from dealing with the stuff of life. Parents and teachers have a responsibility to prepare the young to meet the diversity of experiences in life to which they will be exposed, as they have a responsibility to help them learn to think critically for themselves. These are affirmative responsibilities, not to be discharged simply by preventing them from reading works for which they are not yet prepared. In these matters values differ, and values cannot be legislated; nor can machinery be devised that will suit the demands of one group without limiting the freedom of others.

5. *It is not in the public interest to force a reader to accept the prejudgment of a label characterizing any expression or its author as subversive or dangerous.*

The ideal of labeling presupposes the existence of individuals or groups with wisdom to determine by authority what is good or bad for others. It presupposes that individuals must be directed in making up their minds about the ideas they examine. But Americans do not need others to do their thinking for them.

6. *It is the responsibility of publishers and librarians, as guardians of the people's freedom to read, to contest encroachments upon that freedom by individuals or groups seeking to*

2. "The Freedom to Read Statement", American Library Association, July 26, 2006.

<http://www.ala.org/advocacy/intfreedom/freedomreadstatement>

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impose their own standards or tastes upon the community at large; and by the government whenever it seeks to reduce or deny public access to public information.

It is inevitable in the give and take of the democratic process that the political, the moral, or the aesthetic concepts of an individual or group will occasionally collide with those of another individual or group. In a free society individuals are free to determine for themselves what they wish to read, and each group is free to determine what it will recommend to its freely associated members. But no group has the right to take the law into its own hands, and to impose its own concept of politics or morality upon other members of a democratic society. Freedom is no freedom if it is accorded only to the accepted and the inoffensive. Further, democratic societies are more safe, free, and creative when the free flow of public information is not restricted by governmental prerogative or self-censorship.

7. *It is the responsibility of publishers and librarians to give full meaning to the freedom to read by providing books that enrich the quality and diversity of thought and expression. By the exercise of this affirmative responsibility, they can demonstrate that the answer to a "bad" book is a good one, the answer to a "bad" idea is a good one.*

The freedom to read is of little consequence when the reader cannot obtain matter fit for that reader's purpose. What is needed is not only the absence of restraint, but the positive provision of opportunity for the people to read the best that has been thought and said. Books are the major channel by which the intellectual inheritance is handed down, and the principal means of its testing and growth. The defense of the freedom to read requires of all publishers and librarians the utmost of their faculties, and deserves of all Americans the fullest of their support.

We state these propositions neither lightly nor as easy generalizations. We here stake out a lofty claim for the value of the written word. We do so because we believe that it is possessed of enormous variety and usefulness, worthy of cherishing and keeping free. We realize that the application of these propositions may mean the dissemination of ideas and manners of expression that are repugnant to many persons. We do not state these propositions in the comfortable belief that what people read is unimportant. We believe rather that what people read is deeply important; that ideas can be dangerous; but that the suppression of ideas is fatal to a democratic society. Freedom itself is a dangerous way of life, but it is ours.

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This statement was originally issued in May of 1953 by the Westchester Conference of the American Library Association and the American Book Publishers Council, which in 1970 consolidated with the American Educational Publishers Institute to become the Association of American Publishers.

Adopted June 25, 1953, by the ALA Council and the AAP Freedom to Read Committee; amended January 28, 1972; January 16, 1991; July 12, 2000; June 30, 2004.

A Joint Statement by:

American Library Association

Association of American Publishers

Subsequently endorsed by:

American Booksellers for Free Expression

The Association of American University Presses

The Children's Book Council

Freedom to Read Foundation

National Association of College Stores

National Coalition Against Censorship

National Council of Teachers of English

The Thomas Jefferson Center for the Protection of Free Expression

2. "The Freedom to Read Statement", American Library Association, July 26, 2006.

<http://www.ala.org/advocacy/intfreedom/freedomreadstatement>

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ALA Freedom to View Statement³

The FREEDOM TO VIEW, along with the freedom to speak, to hear, and to read, is protected by the First Amendment to the Constitution of the United States. In a free society, there is no place for censorship of any medium of expression. Therefore these principles are affirmed:

1. To provide the broadest access to film, video, and other audiovisual materials because they are a means for the communication of ideas. Liberty of circulation is essential to insure the constitutional guarantee of freedom of expression.
2. To protect the confidentiality of all individuals and institutions using film, video, and other audiovisual materials.
3. To provide film, video, and other audiovisual materials which represent a diversity of views and expression. Selection of a work does not constitute or imply agreement with or approval of the content.
4. To provide a diversity of viewpoints without the constraint of labeling or prejudging film, video, or other audiovisual materials on the basis of the moral, religious, or political beliefs of the producer or filmmaker or on the basis of controversial content.
5. To contest vigorously, by all lawful means, every encroachment upon the public's freedom to view.

This statement was originally drafted by the Freedom to View Committee of the American Film and Video Association (formerly the Educational Film Library Association) and was adopted by the AFVA Board of Directors in February 1979. This statement was updated and approved by the AFVA Board of Directors in 1989.

Endorsed January 10, 1990, by the ALA Council

3. "Freedom to View Statement", American Library Association, May 29, 2007.
<http://www.ala.org/advocacy/intfreedom/freedomviewstatement>
Document ID: 95444382-9c6c-e904-0962-be3aa96cdb5a

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ALA Office for Intellectual Freedom⁴

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Chicago, IL 60601
(312) 280-4226
E-mail: oif@ala.org

Established December 1, 1967, the Office for Intellectual Freedom is charged with implementing ALA policies concerning the concept of intellectual freedom as embodied in the *Library Bill of Rights*, the Association's basic policy on free access to libraries and library materials. The goal of the office is to educate librarians and the general public about the nature and importance of intellectual freedom in libraries.

4. "Office for Intellectual Freedom", American Library Association, June 9, 2008.

<http://www.ala.org/aboutala/offices/oif>

Document ID: 58596b55-2635-d0a4-e590-ae0df8c25fed

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Children's Internet Protection Act¹

The Children's Internet Protection Act (CIPA) was enacted by Congress in 2000 to address concerns about children's access to obscene or harmful content over the Internet. CIPA imposes certain requirements on schools or libraries that receive discounts for Internet access or internal connections through the E-rate program – a program that makes certain communications services and products more affordable for eligible schools and libraries. In early 2001, the FCC issued rules implementing CIPA and provided updates to those rules in 2011.

What CIPA requires

Schools and libraries subject to CIPA may not receive the discounts offered by the E-rate program unless they certify that they have an Internet safety policy that includes technology protection measures. The protection measures must block or filter Internet access to pictures that are: (a) obscene; (b) child pornography; or (c) harmful to minors (for computers that are accessed by minors). Before adopting this Internet safety policy, schools and libraries must provide reasonable notice and hold at least one public hearing or meeting to address the proposal.

Schools subject to CIPA have two additional certification requirements: 1) their Internet safety policies must include monitoring the online activities of minors; and 2) as required by the Protecting Children in the 21st Century Act, they must provide for educating minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms, and cyberbullying awareness and response.

Schools and libraries subject to CIPA are required to adopt and implement an Internet safety policy addressing:

- Access by minors to inappropriate matter on the Internet;
- The safety and security of minors when using electronic mail, chat rooms and other forms of direct electronic communications;
- Unauthorized access, including so-called “hacking,” and other unlawful activities by minors online;
- Unauthorized disclosure, use, and dissemination of personal information regarding minors; and
- Measures restricting minors' access to materials harmful to them.

Schools and libraries must certify they are in compliance with CIPA before they can receive E-rate funding.

- CIPA does not apply to schools and libraries receiving discounts only for telecommunications service only;
- An authorized person may disable the blocking or filtering measure during use by an adult to enable access for bona fide research or other lawful purposes.
- CIPA does not require the tracking of Internet use by minors or adults.

1. “Children's Internet Protection Act.” *Children's Internet Protection Act (CIPA)*, Federal Communications Commission, 30 Dec. 2019, www.fcc.gov/consumers/guides/childrens-internet-protection-act

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Computer Fraud and Abuse Act (CFAA)²

(a)Whoever—

(1)having knowingly accessed a **computer** without authorization or exceeding authorized access, and by means of such conduct having obtained information that has been determined by the United **States** Government pursuant to an Executive order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, or any restricted data, as defined in paragraph y. of section 11 of the **Atomic Energy Act of 1954**, with reason to believe that such information so obtained could be used to the injury of the United **States**, or to the advantage of any foreign nation willfully communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any **person** not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United **States** entitled to receive it;

(2)intentionally accesses a **computer** without authorization or **exceeds authorized access**, and thereby obtains—

(A)information contained in a **financial record** of a **financial institution**, or of a card issuer as defined in **section 1602(n) [1]** of title 15, or contained in a file of a consumer reporting agency on a consumer, as such terms are defined in the **Fair Credit Reporting Act (15 U.S.C. 1681 et seq.)**;

(B)information from any department or agency of the United **States**;
or

(C)information from any **protected computer**;

(3)intentionally, without authorization to access any nonpublic **computer** of a department or agency of the United **States**, accesses such a **computer** of that department or agency that is exclusively for the use of the Government of the United **States** or, in the case of a **computer** not exclusively for such use, is used by or for the Government of the United

2. "18 U.S. Code § 1030 - Fraud and Related Activity in Connection with Computers." *Legal Information Institute*, Legal Information Institute, www.law.cornell.edu/uscode/text/18/1030

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States and such conduct affects that use by or for the Government of the United **States**;

(4) knowingly and with intent to defraud, accesses a **protected computer** without authorization, or **exceeds authorized access**, and by means of such conduct furthers the intended fraud and obtains anything of value, unless the object of the fraud and the thing obtained consists only of the use of the **computer** and the value of such use is not more than \$5,000 in any 1-year period;

(5)

(A) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes **damage** without authorization, to a **protected computer**;

(B) intentionally accesses a **protected computer** without authorization, and as a result of such conduct, recklessly causes **damage**; or

(C) intentionally accesses a **protected computer** without authorization, and as a result of such conduct, causes **damage** and **loss**.^[2]

(6) knowingly and with intent to defraud traffics (as defined in **section 1029**) in any password or similar information through which a **computer** may be accessed without authorization, if—

(A) such trafficking affects interstate or foreign commerce; or

(B) such **computer** is used by or for the Government of the United **States**; ^[3]

(7) with intent to extort from any **person** any money or other thing of value, transmits in interstate or foreign commerce any communication containing any—

(A) threat to cause **damage** to a **protected computer**;

(B) threat to obtain information from a **protected computer** without authorization or in excess of authorization or to impair the

2. "18 U.S. Code § 1030 - Fraud and Related Activity in Connection with Computers." *Legal Information Institute*, Legal Information Institute, www.law.cornell.edu/uscode/text/18/1030

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confidentiality of information obtained from a **protected computer** without authorization or by exceeding authorized access; or

(C) demand or request for money or other thing of value in relation to **damage** to a **protected computer**, where such **damage** was caused to facilitate the extortion;

shall be punished as provided in subsection (c) of this section.

(b) Whoever conspires to commit or attempts to commit an offense under subsection (a) of this section shall be punished as provided in subsection (c) of this section.

(c) The punishment for an offense under subsection (a) or (b) of this section is—

(1)

(A) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(1) of this section which does not occur after a **conviction** for another offense under this section, or an attempt to commit an offense punishable under this subparagraph; and

(B) a fine under this title or imprisonment for not more than twenty years, or both, in the case of an offense under subsection (a)(1) of this section which occurs after a **conviction** for another offense under this section, or an attempt to commit an offense punishable under this subparagraph;

(2)

(A) except as provided in subparagraph (B), a fine under this title or imprisonment for not more than one year, or both, in the case of an offense under subsection (a)(2), (a)(3), or (a)(6) of this section which does not occur after a **conviction** for another offense under this section, or an attempt to commit an offense punishable under this subparagraph;

2. "18 U.S. Code § 1030 - Fraud and Related Activity in Connection with Computers." *Legal Information Institute*, Legal Information Institute, www.law.cornell.edu/uscode/text/18/1030

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(B)a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(2), or an attempt to commit an offense punishable under this subparagraph, if—

(i)the offense was committed for purposes of commercial advantage or private financial gain;

(ii)the offense was committed in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or of any State; or

(iii)the value of the information obtained exceeds \$5,000; and

(C)a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(2), (a)(3) or (a)(6) of this section which occurs after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph;

(3)

(A)a fine under this title or imprisonment for not more than five years, or both, in the case of an offense under subsection (a)(4) or (a)(7) of this section which does not occur after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph; and

(B)a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(4),^[4] or (a)(7) of this section which occurs after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph;

(4)

(A)except as provided in subparagraphs (E) and (F), a fine under this title, imprisonment for not more than 5 years, or both, in the case of—

2. "18 U.S. Code § 1030 - Fraud and Related Activity in Connection with Computers." *Legal Information Institute*, Legal Information Institute, www.law.cornell.edu/uscode/text/18/1030

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(i)an offense under subsection (a)(5)(B), which does not occur after a **conviction** for another offense under this section, if the offense caused (or, in the case of an attempted offense, would, if completed, have caused)—

(I)loss to 1 or more **persons** during any 1-year period (and, for purposes of an investigation, prosecution, or other proceeding brought by the United **States** only, **loss** resulting from a related course of conduct affecting 1 or more other **protected computers**) aggregating at least \$5,000 in value;

(II)the modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of 1 or more individuals;

(III)physical injury to any **person**;

(IV)a threat to public health or safety;

(V)damage affecting a **computer** used by or for an entity of the United **States** Government in furtherance of the administration of justice, national defense, or national security; or

(VI)damage affecting 10 or more **protected computers** during any 1-year period; or

(ii)an attempt to commit an offense punishable under this subparagraph;

(B)except as provided in subparagraphs (E) and (F), a fine under this title, imprisonment for not more than 10 years, or both, in the case of—

(i)an offense under subsection (a)(5)(A), which does not occur after a **conviction** for another offense under this section, if the offense

2. "18 U.S. Code § 1030 - Fraud and Related Activity in Connection with Computers." *Legal Information Institute*, Legal Information Institute, www.law.cornell.edu/uscode/text/18/1030

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caused (or, in the case of an attempted offense, would, if completed, have caused) a harm provided in subclauses (I) through (VI) of subparagraph (A)(i); or

(ii)an attempt to commit an offense punishable under this subparagraph;

(C)except as provided in subparagraphs (E) and (F), a fine under this title, imprisonment for not more than 20 years, or both, in the case of—

(i)an offense or an attempt to commit an offense under subparagraphs (A) or (B) of subsection (a)(5) that occurs after a **conviction** for another offense under this section; or

(ii)an attempt to commit an offense punishable under this subparagraph;

(D)a fine under this title, imprisonment for not more than 10 years, or both, in the case of—

(i)an offense or an attempt to commit an offense under subsection (a)(5)(C) that occurs after a **conviction** for another offense under this section; or

(ii)an attempt to commit an offense punishable under this subparagraph;

(E)if the offender attempts to cause or knowingly or recklessly causes serious bodily injury from conduct in violation of subsection (a)(5)(A), a fine under this title, imprisonment for not more than 20 years, or both;

(F)if the offender attempts to cause or knowingly or recklessly causes death from conduct in violation of subsection (a)(5)(A), a fine under this title, imprisonment for any term of years or for life, or both; or

2. "18 U.S. Code § 1030 - Fraud and Related Activity in Connection with Computers." *Legal Information Institute*, Legal Information Institute, www.law.cornell.edu/uscode/text/18/1030

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(G)a fine under this title, imprisonment for not more than 1 year, or both, for—

(i)any other offense under subsection (a)(5); or

(ii)an attempt to commit an offense punishable under this subparagraph.

(d)

(1)The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section.

(2)The Federal Bureau of Investigation shall have primary authority to investigate offenses under subsection (a)(1) for any cases involving espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11y of the [Atomic Energy Act of 1954 \(42 U.S.C. 2014\(y\)\)](#)), except for offenses affecting the duties of the United States Secret Service pursuant to [section 3056\(a\) of this title](#).

(3)Such authority shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

(e)As used in this section—

(1)the term “[computer](#)” means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device;

(2)the term “[protected computer](#)” means a [computer](#)—

2. “18 U.S. Code § 1030 - Fraud and Related Activity in Connection with Computers.” *Legal Information Institute*, Legal Information Institute, www.law.cornell.edu/uscode/text/18/1030

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(A) exclusively for the use of a **financial institution** or the United States Government, or, in the case of a **computer** not exclusively for such use, used by or for a **financial institution** or the United States Government and the conduct constituting the offense affects that use by or for the **financial institution** or the Government;

(B) which is used in or affecting interstate or foreign commerce or communication, including a **computer** located outside the United States that is used in a manner that affects interstate or foreign commerce or communication of the United States; or

(C) that—

(i) is part of a **voting system**; and

(ii)

(I) is used for the management, support, or administration of a **Federal election**; or

(II) has moved in or otherwise affects interstate or foreign commerce;

(3) the term “**State**” includes the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession or territory of the United States;

(4) the term “**financial institution**” means—

(A) an institution, with deposits insured by the Federal Deposit Insurance Corporation;

(B) the Federal Reserve or a member of the Federal Reserve including any Federal Reserve Bank;

(C) a credit union with accounts insured by the National Credit Union Administration;

2. “18 U.S. Code § 1030 - Fraud and Related Activity in Connection with Computers.” *Legal Information Institute*, Legal Information Institute, www.law.cornell.edu/uscode/text/18/1030

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- (D)**a member of the Federal home loan bank system and any home loan bank;
- (E)**any institution of the Farm Credit System under the [Farm Credit Act of 1971](#);
- (F)**a broker-dealer registered with the Securities and Exchange Commission pursuant to section 15 of the [Securities Exchange Act of 1934](#);
- (G)**the Securities Investor Protection Corporation;
- (H)**a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the [International Banking Act of 1978](#)); and
- (I)**an organization operating under section 25 or section 25(a) 1 of the [Federal Reserve Act](#);
- (5)**the term “[financial record](#)” means information derived from any record held by a [financial institution](#) pertaining to a customer’s relationship with the [financial institution](#);
- (6)**the term “[exceeds authorized access](#)” means to access a [computer](#) with authorization and to use such access to obtain or alter information in the [computer](#) that the accesser is not entitled so to obtain or alter;
- (7)**the term “[department of the United States](#)” means the legislative or judicial branch of the Government or one of the executive departments enumerated in [section 101 of title 5](#);
- (8)**the term “[damage](#)” means any impairment to the integrity or availability of data, a program, a system, or information;
- (9)**the term “[government entity](#)” includes the Government of the United States, any [State](#) or political subdivision of the United States, any foreign country, and any [state](#), province, municipality, or other political subdivision of a foreign country;

2. “18 U.S. Code § 1030 - Fraud and Related Activity in Connection with Computers.” *Legal Information Institute*, Legal Information Institute, www.law.cornell.edu/uscode/text/18/1030

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(10)the term “conviction” shall include a conviction under the law of any State for a crime punishable by imprisonment for more than 1 year, an element of which is unauthorized access, or exceeding authorized access, to a computer;

(11)the term “loss” means any reasonable cost to any victim, including the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service;

(12)the term “person” means any individual, firm, corporation, educational institution, financial institution, governmental entity, or legal or other entity;

(13)the term “Federal election” means any election (as defined in section 301(1) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101(1))) for Federal office (as defined in section 301(3) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101(3))); and

(14)the term “voting system” has the meaning given the term in section 301(b) of the Help America Vote Act of 2002 (52 U.S.C. 21081(b)).

(f)This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.

(g)Any person who suffers damage or loss by reason of a violation of this section may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. A civil action for a violation of this section may be brought only if the conduct involves 1 of the factors set forth in subclauses [5] (I), (II), (III), (IV), or (V) of subsection (c)(4)(A)(i). Damages for a violation involving only conduct described in subsection (c)(4)(A)(i)(I) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage. No action may

2. “18 U.S. Code § 1030 - Fraud and Related Activity in Connection with Computers.” *Legal Information Institute*, Legal Information Institute, www.law.cornell.edu/uscode/text/18/1030

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be brought under this subsection for the negligent design or manufacture of **computer** hardware, **computer** software, or firmware.

(h)The Attorney General and the Secretary of the Treasury shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning investigations and prosecutions under subsection (a)(5).

(i)

(1)The court, in imposing sentence on any **person** convicted of a violation of this section, or convicted of conspiracy to violate this section, shall order, in addition to any other sentence imposed and irrespective of any provision of **State** law, that such **person** forfeit to the United States—

(A)such **person**'s interest in any personal property that was used or intended to be used to commit or to facilitate the commission of such violation; and

(B)any property, real or personal, constituting or derived from, any proceeds that such **person** obtained, directly or indirectly, as a result of such violation.

(2)The criminal forfeiture of property under this subsection, any seizure and disposition thereof, and any judicial proceeding in relation thereto, shall be governed by the provisions of section 413 of the **Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853)**, except subsection (d) of that section.

(j)For purposes of subsection (i), the following shall be subject to forfeiture to the United States and no property right shall exist in them:

(1)Any personal property used or intended to be used to commit or to facilitate the commission of any violation of this section, or a conspiracy to violate this section.

(2)Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this section, or a conspiracy to violate this section [6]

2. "18 U.S. Code § 1030 - Fraud and Related Activity in Connection with Computers." *Legal Information Institute*, Legal Information Institute, www.law.cornell.edu/uscode/text/18/1030

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(Added Pub. L. 98-473, title II, § 2102(a), Oct. 12, 1984, 98 Stat. 2190; amended Pub. L. 99-474, § 2, Oct. 16, 1986, 100 Stat. 1213; Pub. L. 100-690, title VII, § 7065, Nov. 18, 1988, 102 Stat. 4404; Pub. L. 101-73, title IX, § 962(a)(5), Aug. 9, 1989, 103 Stat. 502; Pub. L. 101-647, title XII, § 1205(e), title XXV, § 2597(j), title XXXV, § 3533, Nov. 29, 1990, 104 Stat. 4831, 4910, 4925; Pub. L. 103-322, title XXIX, § 290001(b)-(f), Sept. 13, 1994, 108 Stat. 2097-2099; Pub. L. 104-294, title II, § 201, title VI, § 604(b)(36), Oct. 11, 1996, 110 Stat. 3491, 3508; Pub. L. 107-56, title V, § 506(a), title VIII, § 814(a)-(e), Oct. 26, 2001, 115 Stat. 366, 382-384; Pub. L. 107-273, div. B, title IV, §§ 4002(b)(1), (12), 4005(a)(3), (d)(3), Nov. 2, 2002, 116 Stat. 1807, 1808, 1812, 1813; Pub. L. 107-296, title XXII, § 2207(g), formerly title II, § 225(g), Nov. 25, 2002, 116 Stat. 2158, renumbered § 2207(g), Pub. L. 115-278, § 2(g)(2)(I), Nov. 16, 2018, 132 Stat. 4178; Pub. L. 110-326, title II, §§ 203, 204(a), 205-208, Sept. 26, 2008, 122 Stat. 3561, 3563; Pub. L. 116-179, § 2, Oct. 20, 2020, 134 Stat. 855.)

2. "18 U.S. Code § 1030 - Fraud and Related Activity in Connection with Computers." *Legal Information Institute*, Legal Information Institute, www.law.cornell.edu/uscode/text/18/1030

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Digital Millennium Copyright Act - Title I: WIPO Treaties Implementation - WIPO Copyright and Performances and Phonograms Treaties Implementation Act of 1998 - Amends Federal copyright law to grant copyright protection to: (1) sound recordings that were first fixed in a treaty party (a country or intergovernmental organization other than the United States that is a party to specified international copyright and other agreements); and (2) pictorial, graphic, or sculptural works incorporated in a building or other structure or an architectural work embodied in a building located in the United States or a treaty party.

Treats works published in the United States or a treaty party within 30 days after publication in a foreign nation that is not a treaty party as first published in the United States or a treaty party for purposes of conferring protection.

Provides that no works other than sound recordings shall be eligible for protection solely by virtue of U.S. adherence to the Geneva Phonograms Convention or the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty.

Revises the definition of "eligible country," for purposes of provisions regarding copyright in restored works, to include nations other than the United States that: (1) become World Trade Organization member countries after the date of enactment of the Uruguay Round Agreements Act; (2) are or become nations adhering to the Berne Convention; (3) adhere to the WIPO Copyright or Performances and Phonograms Treaties; or (4) become subject to a certain presidential proclamation of copyright restoration after such enactment date.

Includes sound recordings in the definition of "restored work" if the source country for the work is an eligible country solely by its adherence to the WIPO Performances and Phonograms Treaty.

(Sec. 103) Prohibits: (1) circumvention of technological measures that control access to protected works; or (2) manufacturing or trafficking in technology designed to circumvent measures that control access to, or protect rights of copyright owners in, such works.

Makes the prohibition effective at the end of the two-year period beginning on the enactment of this Act. Exempts persons who are users of a copyrighted work which is in

3. Coble, Howard. "H.R.2281 - 105th Congress (1997-1998): Digital Millennium Copyright Act." *Congress.gov*, 28 Oct. 1998, www.congress.gov/bill/105th-congress/house-bill/2281

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a particular class if such persons are, or are likely to be in the succeeding three-year period, adversely affected by virtue of such prohibition in their ability to make noninfringing uses of that particular class of works. Requires, during the two-year period and during each succeeding three-year period, the Librarian of Congress, upon the recommendation of the Register of Copyrights, to make the determination in a rulemaking proceeding on the record of whether the individuals who are users of copyrighted work are adversely affected in their ability to make noninfringing uses of a particular class of copyrighted works. Requires the Librarian to publish any class of copyrighted works for which the Librarian determines, pursuant to the rulemaking procedure, that noninfringing uses by persons who are users of copyrighted work are, or are likely to be, adversely affected and that the prohibition is inapplicable to such users with respect to such class of works for the ensuing three-year period. Prohibits an exception from the applicability of the prohibition or any determination made in such rule making from being used as a defense in any action to enforce any provision of this title.

Specifies that nothing in this Act shall enlarge or diminish any rights of free speech or the press for activities using consumer electronics, telecommunications, or computing products.

Provides exemptions to such prohibition for: (1) nonprofit libraries, archives, or educational institutions which gain access to a commercially exploited copyrighted work solely to make a good faith determination of whether to acquire such work, subject to certain conditions; (2) lawfully authorized investigative, protective, information security, or Digital Millennium Copyright Act - Title I: WIPO Treaties Implementation - WIPO Copyright and Performances and Phonograms Treaties Implementation Act of 1998 - Amends Federal copyright law to grant copyright protection to: (1) sound recordings that were first fixed in a treaty party (a country or intergovernmental organization other than the United States that is a party to specified international copyright and other agreements); and (2) pictorial, graphic, or sculptural works incorporated in a building or other structure or an architectural work embodied in a building located in the United States or a treaty party.

Treats works published in the United States or a treaty party within 30 days after publication in a foreign nation that is not a treaty party as first published in the United States or a treaty party for purposes of conferring protection.

3. Coble, Howard. "H.R.2281 - 105th Congress (1997-1998): Digital Millennium Copyright Act." *Congress.gov*, 28 Oct. 1998, www.congress.gov/bill/105th-congress/house-bill/2281

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Provides that no works other than sound recordings shall be eligible for protection solely by virtue of U.S. adherence to the Geneva Phonograms Convention or the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty.

Revises the definition of "eligible country," for purposes of provisions regarding copyright in restored works, to include nations other than the United States that: (1) become World Trade Organization member countries after the date of enactment of the Uruguay Round Agreements Act; (2) are or become nations adhering to the Berne Convention; (3) adhere to the WIPO Copyright or Performances and Phonograms Treaties; or (4) become subject to a certain presidential proclamation of copyright restoration after such enactment date.

Includes sound recordings in the definition of "restored work" if the source country for the work is an eligible country solely by its adherence to the WIPO Performances and Phonograms Treaty.

(Sec. 103) Prohibits: (1) circumvention of technological measures that control access to protected works; or (2) manufacturing or trafficking in technology designed to circumvent measures that control access to, or protect rights of copyright owners in, such works.

Makes the prohibition effective at the end of the two-year period beginning on the enactment of this Act. Exempts persons who are users of a copyrighted work which is in a particular class if such persons are, or are likely to be in the succeeding three-year period, adversely affected by virtue of such prohibition in their ability to make noninfringing uses of that particular class of works. Requires, during the two-year period and during each succeeding three-year period, the Librarian of Congress, upon the recommendation of the Register of Copyrights, to make the determination in a rulemaking proceeding on the record of whether the individuals who are users of copyrighted work are adversely affected in their ability to make noninfringing uses of a particular class of copyrighted works. Requires the Librarian to publish any class of copyrighted works for which the Librarian determines, pursuant to the rulemaking procedure, that noninfringing uses by persons who are users of copyrighted work are, or are likely to be, adversely affected and that the prohibition is inapplicable to such users with respect to such class of works for the ensuing three-year period. Prohibits an exception from the applicability of the prohibition or any determination made in such rule making from being used as a defense in any action to enforce any provision of this title.

3. Coble, Howard. "H.R.2281 - 105th Congress (1997-1998): Digital Millennium Copyright Act." *Congress.gov*, 28 Oct. 1998, www.congress.gov/bill/105th-congress/house-bill/2281

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Specifies that nothing in this Act shall enlarge or diminish any rights of free speech or the press for activities using consumer electronics, telecommunications, or computing products.

Provides exemptions to such prohibition for: (1) nonprofit libraries, archives, or educational institutions which gain access to a commercially exploited copyrighted work solely to make a good faith determination of whether to acquire such work, subject to certain conditions; (2) lawfully authorized investigative, protective, information security, or intelligence activities of the United States, a State, or political subdivision of a State; and (3) purposes of achieving interoperability of computer programs. Defines "information security" as activities carried out in order to identify and address the vulnerabilities of a government computer, computer system, or computer network.

Specifies: (1) conditions under which a person is allowed to circumvent technological measures as applied to a copy, phonorecord, performance, or display of a published work in the course of an act of good faith encryption research and the use of technological means for such encryption research activities; and (2) factors to be considered in determining whether the person qualifies for such exemption. Defines "encryption research" as activities necessary to identify and analyze flaws and vulnerabilities of encryption technologies applied to copyrighted works, if these activities are conducted to advance the state of knowledge in the field of encryption technology or to assist in the development of encryption products.

Requires the Register of Copyrights and the Assistant Secretary for Communications and Information of the Department of Commerce to jointly report to the Congress, along with legislative recommendations, if any, on the effect this Act has had on: (1) encryption research and the development of encryption technology; (2) the adequacy and effectiveness of technological measures designed to protect copyrighted works; and (3) protection of copyright owners against the unauthorized access to their encrypted copyrighted works.

Permits the court, in applying this Act to a component or part, to consider the necessity for its intended and actual incorporation in a technology, product, service, or device which: (1) does not itself violate the provisions of this title; and (2) has the sole purpose to prevent the access of minors to material on the Internet.

3. Coble, Howard. "H.R.2281 - 105th Congress (1997-1998): Digital Millennium Copyright Act." *Congress.gov*, 28 Oct. 1998, www.congress.gov/bill/105th-congress/house-bill/2281

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Sets forth provisions regarding: (1) protection of personally identifying information; (2) inapplicability to certain technological measures; (3) permissible acts of security testing and factors in determining an exemption for such testing; and (4) use of technological means for security testing.

Prohibits the manufacturing or trafficking of certain analog video cassette recorder devices and copy control technological measures unless they: (1) effective 18 months after enactment of this Act, conform to the automatic gain control copy control technology or the automatic gain control technology under certain conditions; or (2) effective on the enactment of this Act, have been modified after such date so if they previously conformed to the automatic gain control copy control technology they no longer conform or if they previously conformed to the four-line colorstripe copy control technology they no longer. Requires manufacturers that have not previously manufactured or sold a VHS format analog video cassette recorder or an 8mm format analog cassette recorder to conform to the four-line colorstripe copy control technology in the initial model of any such recorder manufactured after the enactment of this Act and thereafter to continue to do so.

Prohibits allowing a person to apply the automatic gain control copy control technology or colorstripe copy control technology to prevent or limit consumer copying, subject to exceptions.

Provides that this Act shall not: (1) require any analog video cassette camcorder to conform to the automatic gain control copy control technology with respect to any video signal received through a camera lens; (2) apply to the manufacturing or trafficking in any professional analog video cassette recorder; or (3) apply to the offer for sale or provision of, or other trafficking in, any previously owned analog video cassette recorder, if such recorder was legally manufactured and sold when new and not subsequently modified in violation of this Act.

Bars the provision or distribution of false copyright management information with the intent to induce or conceal infringement. Defines "copyright management information" as certain information, including title, name of author and copyright owner, and terms for use of the work, conveyed in connection with copies or phonorecords of a work or performances or displays, including in digital form, except that such term does not include any personally identifying information about a user of a work or of a copy, phonorecord, performance, or display of a work.

3. Coble, Howard. "H.R.2281 - 105th Congress (1997-1998): Digital Millennium Copyright Act." *Congress.gov*, 28 Oct. 1998, www.congress.gov/bill/105th-congress/house-bill/2281

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Provides exemptions to such prohibition for: (1) lawfully authorized investigative, protective, information security (as previously defined), or intelligence activities of the United States, a State, or political subdivision of a State; and (2) certain analog and digital transmissions by broadcast stations or cable systems.

Establishes civil remedies for violations regarding the circumvention of technological protection measures and the falsification of copyright management information.

Prescribes criminal penalties for willful violations committed for commercial advantage or private financial gain. Makes criminal penalties inapplicable to nonprofit libraries, archives, and educational institutions. Imposes a statute of limitations on criminal proceedings.

(Sec. 104) Requires the Register of Copyrights and the Assistant Secretary for Communications and Information of the Department of Commerce to jointly evaluate and report to the Congress, along with any legislative recommendations on: (1) the effects of the amendments made by this title and the development of electronic commerce and associated technology on the operation of copyright law provisions concerning the disposition of a particular copy or phonorecord and the making of a copy or adaptation of a computer program; and (2) the relationship between existing and emergent technology and the operation of such provisions.

(Sec. 105) Provides that certain provisions of this title shall be effective as of enactment, except for specified provisions which shall be effective upon the entry into force of the WIPO Copyright and Performances and Phonograms Treaties.

Title II: Online Copyright Infringement Liability Limitation - Online Copyright Infringement Liability Limitation Act - Establishes limited liability for online copyright infringement for: (1) entities offering the transmission, routing, or providing of connections for digital online communications between points specified by a user of material of the user's choosing, without modification of the material; and (2) providers of online services or network access.

Describes specific circumstances that provide for limited liability, including cases in which material is stored on service provider systems or networks or where users are

3. Coble, Howard. "H.R.2281 - 105th Congress (1997-1998): Digital Millennium Copyright Act." *Congress.gov*, 28 Oct. 1998, www.congress.gov/bill/105th-congress/house-bill/2281

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linked to an online location containing infringing materials or activity by using information location tools.

Makes liability limitations applicable only if a service provider has designated an agent to receive notifications of claimed infringement by making contact information available through its service, including on its website in a location accessible to the public, and to the Copyright Office. Sets forth requirements for such notifications.

Specifies conditions under which limitation on liability of nonprofit educational institutions shall apply.

Makes liable for damages persons who knowingly misrepresent that material or activity is infringing or that it was removed or disabled by mistake or misidentification.

Absolves service providers of liability with respect to claims based on good faith disabling of access to, or removal of, material or activity claimed to be infringing regardless of whether the material or activity is ultimately determined to be infringing. Sets forth additional conditions to be met by service providers with respect to such activities that involve service subscribers.

Makes liability limitations applicable only if a service provider: (1) implements and informs subscribers of a policy for terminating subscribers who are repeat infringers; and (2) accommodates and does not interfere with certain standard technical measures used by copyright owners to identify or protect copyrighted works.

Describes conditions under which a court may grant injunctive relief with respect to service providers.

Title III: Computer Maintenance or Repair Copyright Exemption - Computer Maintenance Competition Assurance Act -Provides that it is not a copyright infringement for the owner or lessee of a machine to make or authorize the making of a copy of a computer program solely by activation of a machine that lawfully contains an authorized copy of the program for purposes only of maintenance or repair of that machine, provided: (1) such new copy is used in no other manner and is destroyed immediately after the maintenance or repair is completed; and (2) any program or part thereof that is

3. Coble, Howard. "H.R.2281 - 105th Congress (1997-1998): Digital Millennium Copyright Act." *Congress.gov*, 28 Oct. 1998, www.congress.gov/bill/105th-congress/house-bill/2281

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not necessary for machine activation is not accessed or used other than to make such new copy by activation of the machine.

Title IV: Miscellaneous Provisions - Adjusts the compensation of the Commissioner of Patents and Trademarks and the Register of Copyrights to that in effect for level III of the Executive Pay Schedule.

Includes the positions of Assistant Secretary of Commerce and Commissioner of Patents and Trademarks and the Register of Copyrights within the level III Executive Pay Schedule.

Modifies the duties and functions of the Register of Copyrights (Register) to include: (1) advising the Congress on national and international issues relating to copyright, other matters arising under this title, and related matters; (2) providing information and assistance to Federal departments and agencies and the Judiciary on national and international issues relating to copyright, other matters arising under this title, and related matters; (3) participating in meetings of international intergovernmental organizations and meetings with foreign government officials relating to copyright, other matters arising under this title, and related matters, including as a member of U.S. delegations as authorized by the appropriate executive branch authority; (4) conducting studies and programs regarding copyright, other matters arising under this title, and related matters, the administration of the Copyright Office, or any function vested in the Copyright Office by law, including educational programs conducted cooperatively with foreign intellectual property offices and international intergovernmental organizations; and (5) performing such other functions as the Congress may direct, or as may be appropriate in furtherance of the functions and duties specifically set forth in this title.

(Sec. 402) Expands certain limitations on exclusive rights with respect to ephemeral recordings to authorize licensed radio or television stations to make one copy or phonorecord of a broadcast of a performance of a sound recording in a digital format on a nonsubscription basis.

(Sec. 403) Directs the Register to submit to the Congress recommendations on how to promote distance education through digital technologies while maintaining a balance between the rights of copyright owners and the needs of users.

3. Coble, Howard. "H.R.2281 - 105th Congress (1997-1998): Digital Millennium Copyright Act." *Congress.gov*, 28 Oct. 1998, www.congress.gov/bill/105th-congress/house-bill/2281

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(Sec. 404) Expands certain rights of libraries and archives to reproduce and distribute copies or phonorecords to authorize three copies or phonorecords (currently, one) to be reproduced or distributed for preservation, security, or replacement purposes. Prohibits copies or phonorecords reproduced in digital format from being distributed otherwise, or available to the public outside library or archive premises, in such format.

Considers a format to be obsolete if the machine or device necessary to render perceptible a work stored in such format is no longer manufactured or reasonably available in the commercial marketplace.

(Sec. 405) Revises provisions concerning the performance of a sound recording publicly by means of a digital audio transmission, other than as a part of an interactive service, to permit such performance without copyright infringement if the performance is part of a nonsubscription broadcast (deletes two current exemptions). Revises provisions concerning statutory licensing of sound recordings to subject to statutory licensing (subject to specified conditions): (1) the performance of a sound recording publicly by means of a non-exempt subscription digital audio transmission; (2) an eligible nonsubscription transmission; or (3) a non-exempt transmission that is made by a preexisting satellite digital audio radio service. Revises procedures for determining reasonable rates and terms of royalty payments for such transmissions.

Specifies conditions under which a transmitting organization entitled to transmit to the public a performance of a sound recording, under the limitation on exclusive rights or under a statutory license for certain nonexempt transmissions, to make no more than one phonorecord of the sound recording (unless the terms and conditions of the statutory license allow for more). Allows copyright owners of sound recordings and transmitting organizations entitled to a statutory license to: (1) negotiate and agree upon royalty rates and license terms and conditions for making phonorecords of such sound recordings and the proportionate division of fees paid among copyright owners; and (2) designate common agents to negotiate, agree to, pay, or receive such royalty payments. Specifies procedures to determine the reasonable terms and rates of royalty payments for such statutory licenses. Sets forth conditions under which a person is allowed to make a phonorecord of a sound recording under a statutory license without infringing the exclusive right of the copyright owner.

Modifies the period in which the Librarian of Congress has to: (1) adopt or to reject the determination of a copyright arbitration royalty panel; and (2) issue an order setting the

3. Coble, Howard. "H.R.2281 - 105th Congress (1997-1998): Digital Millennium Copyright Act." *Congress.gov*, 28 Oct. 1998, www.congress.gov/bill/105th-congress/house-bill/2281

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royalty fee or distribution of fees, as the case may be, if the Librarian rejects the panel's determination. States that when the royalty rates or terms that were previously in effect are to expire on a specified date, any adjustment by the Librarian of those rates or terms shall be effective as of the day following the date of expiration of the rates and terms that were previously in effect, even if the Librarian's decision is rendered on a later date.

(Sec. 406) Amends the Federal judicial code to provide, under specified conditions, in the case of a transfer of copyright ownership in a motion picture that is produced subject to one or more collective bargaining agreements negotiated under Federal laws, if the transfer is executed on or after the effective date of this Act and is not limited to public performance rights, the transfer instrument shall be deemed to incorporate the assumption agreements applicable to the copyright ownership being transferred that are required by the applicable collective bargaining agreement, and the transferee shall be subject to the obligations under each such assumption agreement to make residual payments and provide related notices, accruing after the effective date of the transfer and applicable to the exploitation of the rights transferred, and any remedies under each such assumption agreement for breach of those obligations, as they are set forth in the applicable collective bargaining agreement.

States that the exclusion of transfers of copyright ownership in a motion picture that are limited to public performance rights includes transfers to a terrestrial broadcast station, cable system, or programmer to the extent that the station, system, or programmer is functioning as an exhibitor of the motion picture, either by exhibiting the motion picture on its own network, system, service, or station, or by initiating the transmission of an exhibition that is carried on another network, system, service, or station. Provides that when a terrestrial broadcast station, cable system, or programmer, or other transferee, is also functioning otherwise as a distributor or as a producer of the motion picture, the public performance exclusion does not effect any obligations imposed on the transferee to the extent that it is engaging in such functions.

Specifies an exclusion for grants of security interests.

Requires the Comptroller General to study and report to the Congress on the conditions in the motion picture industry that gave rise to this Act and its impact on such industry.

3. Coble, Howard. "H.R.2281 - 105th Congress (1997-1998): Digital Millennium Copyright Act." *Congress.gov*, 28 Oct. 1998, www.congress.gov/bill/105th-congress/house-bill/2281

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Title V: Protection of Certain Original Designs - Vessel Hull Design Protection Act - Amends Federal copyright law to provide for protection of original designs of vessel hulls which make a vessel attractive or distinctive in appearance to the purchasing or using public.

Bars protection for designs that are: (1) not original; (2) staple or commonplace; (3) dictated solely by a utilitarian function of the article that embodies them; or (4) embodied in a useful article that was made public by the designer or owner more than one year before the date of application for registration.

Provides for ten-year terms of protection.

Sets forth marking and design notice requirements for protected designs. Bars recovery against persons who began undertakings leading to infringement before receiving notice. Places the burden of providing notice of protection on design owners.

Grants owners of protected designs exclusive rights to make, have made, import, sell, or distribute for sale or for use in trade any useful article embodying protected designs. Makes it infringement to engage in such activities with respect to infringing articles without an owner's consent. Provides that it shall not be infringement to: (1) engage in certain activities with respect to protected designs without knowledge; or (2) reproduce a protected design solely for purposes of teaching, analyzing, or evaluating the appearance, concepts, or techniques embodied in the design or the functions of the useful article embodying the design.

Places the burden of establishing a design's originality on the party alleging rights in a design.

Provides that protection shall be lost if application for design registration is not made within two years after the date on which the design is first made public.

Sets forth registration application requirements. Accords protection to designs with respect to which an application was filed by a U.S. owner in a foreign country on the date as filed if the U.S. application is filed within six months after the earliest date on which such foreign application was filed.

3. Coble, Howard. "H.R.2281 - 105th Congress (1997-1998): Digital Millennium Copyright Act." *Congress.gov*, 28 Oct. 1998, www.congress.gov/bill/105th-congress/house-bill/2281

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Sets forth provisions regarding: (1) determinations of registrations and procedures for cancelling registrations in cases where a party believes he or she may be damaged by registration; and (2) ownership and transfer of property rights of protected designs.

Authorizes design owners to seek judicial review of final refusals of the Register of Copyrights to register designs. Permits the use of arbitration to resolve infringement disputes. Authorizes injunctive relief to prevent infringement.

Provides for recovery of damages or the infringer's profits in infringement cases. Sets a three-year statute of limitations with respect to recovery for infringement. Authorizes the court to order or cancel registrations. Prescribes penalties for the filing of infringement actions with respect to fraudulently-obtained registrations or making false markings or representations.

Directs the Secretary of the Treasury and the Postal Service to issue regulations for the enforcement of exclusive rights with respect to importation of protected designs. Subjects articles imported in violation of such rights to seizure and forfeiture.

Terminates protection under this Act upon issuance of a design patent with respect to an original design.

Grants the U.S. district courts jurisdiction over actions arising under this Act.

(Sec. 504) Requires the Register of Copyrights and the Commissioner of Patents and Trademarks to jointly evaluate and report to specified congressional committees on the effect of the amendments made by this title.

3. Coble, Howard. "H.R.2281 - 105th Congress (1997-1998): Digital Millennium Copyright Act." *Congress.gov*, 28 Oct. 1998, www.congress.gov/bill/105th-congress/house-bill/2281