

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1614 – SB 1792

March 1, 2024

SUMMARY OF BILL: Enacts the *Protect Tennessee Minors Act*.

Requires an individual or commercial entity that publishes or distributes in Tennessee a website that contains a substantial portion of content defined by the legislation as harmful to minors to verify that a user attempting to access the website is at least 18 years of age. Requires such entities to retain at least seven years of historical anonymized age-verification data; prohibits them from retaining any personally identifying information of the user after access to the content has been granted.

Establishes that an entity that fails to comply with the age-verification requirement is liable to an individual for damages resulting from a minor's accessing the content deemed harmful, including court costs and reasonable attorney fees. Establishes that an entity that is found to have knowingly retained personally identifying information of an active user after access to the content has been granted is liable to the user for damages resulting from retention of the identifying information, including court costs and reasonable attorney fees.

Creates Class C felony offenses for violations of the proposed requirements and prohibitions.

Delegates responsibility for overseeing and enforcing the requirements to the Department of Safety and Homeland Security (DOS).

FISCAL IMPACT:

Increase State Expenditures – \$29,900 Incarceration
\$4,139,800/FY24-25/General Fund
**\$2,020,000/FY25-26 and Subsequent Years/
General Fund**

Assumptions:

- Based on information provided by the DOS, the Office of Homeland Security (Homeland) does not currently have the necessary equipment or personnel to execute the cyber forensics investigations that it would be required to conduct. The DOS will need to build a computer forensics lab and hire additional personnel.

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- There can be wide variance in the range of costs required to establish a computer forensics lab. In order to formulate an estimate, Homeland consulted with the United States Secret Service.
- The increase in state expenditures to establish the lab, as provided by Homeland, is estimated to be \$3,000,000, which includes the lab, all necessary equipment and storage, software licensing, and training in FY24-25.
- The recurring increase in state expenditures related to the lab are estimated to be \$900,000 (\$700,000 recurring maintenance and storage + \$100,000 software licensing + \$100,000 training) in FY25-26 and subsequent years.
- The DOS will initially require one Senior Associate General Counsel and two Cyber Forensic Investigators.
- The total recurring increase in state expenditures is as follows:

Title	Salary	Benefits	Office & Travel	Positions	Total
Assoc General Counsel	\$172,704	\$36,005	\$9,200	1	\$217,909
Cyber Forensic Investigators	\$63,600	\$18,159	\$5,300	2	\$174,118
				Total:	\$392,028

- In addition, the new positions will require one-time expenditures related to office setup estimated to be \$19,800 in FY24-25.
- The DOS will also need to contract with an age-verification industry consultant. The recurring increase in state expenditures for the consultant is estimated to be \$728,000 in FY24-25 and subsequent years.
- The total increase in state expenditures to the DOS related to enforcement is estimated to be \$4,139,828 (\$3,000,000 lab + \$392,028 positions + \$19,800 office setup + \$728,000 age verification consultant) in FY24-25.
- The total increase in state expenditures to the DOS related to enforcement is estimated to be \$2,020,028 (\$900,000 lab recurring + \$392,028 positions + \$728,000 age verification consultant) in FY25-26 and subsequent years.
- Any impacts related to liabilities and lawsuits will be borne by private parties.
- It is assumed that the courts can accommodate any increase in caseloads within existing resources.
- The number of Class C felony convictions that may result from violations of the legislation's requirements is unknown. Given the widespread nature of such content on the internet and the number of sites that distribute it, it is assumed that the increase in such convictions could be significant.

- It is assumed that a majority of entities will either stop publishing such content or will take steps necessary to meet the requirements of this legislation. However, it is assumed that the proposed legislation will result in one Class C felony conviction each year.
- The average time served for a Class C felony is 1.52 years.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.95 percent per year (from 2020 to 2023).
- The weighted average operational costs per inmate per day are estimated to be \$54.04 for inmates housed at state facilities and \$49.88 for inmates housed at local facilities.
- The increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 19,400	FY24-25
\$ 29,600	FY25-26
\$ 29,900	FY26-27

- Pursuant to Public Chapter 1007 of 2022, recurring costs increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs will be \$29,900.
- Based on the Fiscal Review Committee’s 2008 study and the Administrative Office of the Courts’ 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.

IMPACT TO COMMERCE:

Other Commerce Impact – The precise increase in business expenditures cannot be quantified with reasonable certainty.

Assumptions:

- The proposed legislation will result in a significant increase in business expenditures associated with ensuring compliance with age-verification requirements and any costs associated with court proceedings.
- Due to multiple unknown variables, the increase in business expenditures cannot be quantified with reasonable certainty.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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