# TENNESSEE GENERAL ASSEMBLY FISCAL REVIEW COMMITTEE



# FISCAL MEMORANDUM

#### HB 1614 - SB 1792

March 17, 2024

# **SUMMARY OF BILL AS AMENDED (016023):** 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.

Authorizes the Attorney General and Reporter (AG) to bring appropriate action or proceeding against a commercial entity for violations of the requirements.

Effective January 1, 2025, and applies to conduct occurring on or after that date.

#### FISCAL IMPACT OF BILL AS AMENDED:

# **Increase State Expenditures – \$29,900 Incarceration**

Assumptions for the bill as amended:

• 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.
- The AG can prosecute such cases or bring appropriate actions as the Attorney General deems necessary within existing resources.
- Any impacts related to liabilities from lawsuits brought by individuals or the AG will be borne by private parties.
- It is assumed that the courts can accommodate any increase in caseloads within existing resources.

#### IMPACT TO COMMERCE OF BILL AS AMENDED:

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

## Assumptions for the bill as amended:

- 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.

## **CERTIFICATION:**

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

Krista Lee Carsner, Executive Director

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<sup>\*</sup>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.