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FISCAL IMPACT REPORT

SPONSOR <u>Block</u>	LAST UPDATED _____
	ORIGINAL DATE <u>01/24/2025</u>
SHORT TITLE <u>Protect of Minors from Harmful Material</u>	BILL NUMBER <u>House Bill 44</u>
	ANALYST <u>Chilton</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal			
Total	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal			

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
 New Mexico Attorney General (NMAG)
 Department of Information Technology (DoIT)
 Administrative Office of the District Attorneys (AODA)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of House Bill 44

House Bill 44 establishes the Protection of Minors from Distribution of Harmful Materials Act and refers to materials made available online. It defines harmful material as that which an average person would see as being harmful and which exposes the user to pornographic material. Minors are defined as those under 18 years. It would require that any website with content that is more than one-third objectionable material have a method of “reasonable age verification” to exclude minors. The commercial entity performing the age verification could not retain information about those identified. The requirement would not be applied to news or public broadcasts and would not apply to news-gathering organizations or their employees.

Section 5 of the legislation permits people aggrieved by a perceived violation of the act to sue in district court.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

There is no appropriation in House Bill 44. Responding agencies did not identify increased costs relating to House Bill 44, although it is possible that increased litigation spurred by perceived violations of the act would increase court loads.

SIGNIFICANT ISSUES

Opinions about the dangers of pornography for developing children and adolescents vary. In an article in *Pediatrics*, the journal of the American Academy of Pediatrics, the authors, adolescent health practitioners, state the following:

Sexual content is highly prevalent in traditional media, and portrayals rarely depict the responsibilities and risks (e.g., condom use, pregnancy) associated with sexual activity. Exposure to such content is linked with shifts in attitudes about sex and gender, earlier progression to sexual activity, pregnancy, and sexually transmitted infection among adolescents. However, little information is available about moderators and mediators of these effects. We also know little about digital media, their sex-related content, and their potential influence on youth. Data from a few studies of older youth indicate that sexual displays on social media sites are related to problematic beliefs and behaviors among those who post this content and among viewers. Online pornography appears to be more problematic for youth than off-line sources. Given the vast and increasing amount of time youth spend online and their developmental openness to influence, more research attention to digital sexual media is needed. Those who undertake this work should identify potential negative consequences of use and opportunities to improve adolescent sexual health through digital media.

Web-based age verification methods have proliferated over the last decade. They range in sophistication from merely asking the potential viewer to provide a date of birth, which would be easy for the determined pornography viewer to cheat on, to verification by credit card (credit card companies do not usually issue cards to minors), to facial recognition and evaluation of photographs for apparent age to scanning and evaluation of government documents.

House Bill 44 specifies a “level two identity assurance level” being required of qualifying websites. This has been defined as referring to “a medium level of confidence in verifying someone's identity, requiring either remote or in-person identity proofing with additional evidence like a government-issued ID, address verification, and potentially biometrics, providing a higher level of assurance compared to IAL1 but not as stringent as IAL3.”

The Attorney General’s office comments extensively on other states’ harmful-to-minors legislation and that legislation’s fate when subjected to court challenge. NMAG finds, in summary, that the results of court cases challenging the constitutionality of laws similar to this have been mixed, with some jurisdictions ruling the restrictions to be unconstitutional and other courts finding them in comport with First Amendment rights.

It is not clear how it would be determined which websites have “more than one third” objectionable material.