LFC Requester:	Henry Jacobs

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
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(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: January 24, 2026
Bill Number: SB 53

Check all that apply:
Original _x Correction __
Amendment __ Substitute __

Sponsor: Angel M. Charley and Leo Jaramillo and Marianna Anaya
Short Title: Community & Health Info Safety & Privacy Act

Agency Name and Code Number: Administrative Office of the District Attorneys - #264
Person Writing M. Anne Kelly
Phone: 5052503302 **Email** akelly@da.state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis ( ) indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Section 1 is new material that creates the "Community and Health Information Safety and Privacy Act."
Section 2 is new material entitled "Definitions" for the Act which defines thirty terms used in the Act including "contextual advertising", "dark pattern", "de-identified data", "expressly provided personal data", and "first-party advertising."
Section 3 is new material entitled "Requirements for Covered Entities – Online Platforms – Consumer Options – Minors." "Covered entities" are defined in Section 2 as a for-profit entity that offers online features, products, or services to New Mexico consumers and determines the means and purposes of (1) collecting personal data directly from consumers; (2) using personal data for targeted advertising; or (3) engaging in the brokerage of personal data. This section requires such entitles to (1) configure default privacy settings on their online platforms to offer the highest level of privacy; (2) publicly provide privacy information "clearly and conspicuously" and "separate and distinct" from the entity's other terms of service; (3) public provide tools to help consumers exercise their privacy rights and report concerns; (4) establish and implement data security practices to protect the confidentiality and accessibility of personal data. This section also requires covered entities, when they do not have actual knowledge that a consumer is a minor, to establish settings to permit consumers to disable notifications, choose between a privacy-protective feed and a profile-based feed, and disable contact by unknown individuals unless the consumer initiates the contact. When the covered entity has actual knowledge that the consumer is a minor, the entity shall establish default settings to disable contact by unknown users, disable notifications between 10:00 p.m. and 6:00 a.m. pursuant to federal law, and use a privacy-protective feed.
Section 4 is new material entitled "Prohibited Practices – Consumer Opt-In Mechanism" provides that a covered entity that provides an online feature, product, or service that involves the processing of personal data shall not (1) profile a consumer by default (with some exceptions); (2) process the personal data that is not sensitive personal data of a consumer (with three exceptions); (3) process a consumer's sensitive personal data for the purposes of targeted advertising or other purposes unless the collection of the data is strictly necessary for the covered entity to provide the service or the consumer consent through an "opt-in mechanism" provided in Section 5 of the Act; (4) process a consumer's geolocation information without providing an obvious sign that the consumer is being tracked; (5) implement a geofence around an entity that provides in-person health care services or in-person immigration services to identify or track consumer seeking such services; (6) use dark patterns to cause a consumer to provide personal data; or (7) process or transfer personal data to discriminate or otherwise make unavailable goods or services on the basis of childbirth or pregnancy, color, disability, gender, gender identity, mental health, national origin, physical health condition or diagnosis, race, religion, sex life, or sexual orientation.
Section 5 is new material entitled "Covered Entity – Opt-in Mechanism Requirements" which provides that an entity processing a consumer's sensitive personal data with an opt-in mechanism as required in paragraph 2 of Subsection C of Section 4 of the Act, shall clearly and conspicuously disclose (1) the categories of the sensitive personal data to be shared or collected; (2) the purpose of processing such data, and the specific ways it will be used; (3)

the entities with which the data is shared; (4) how the consumer can withdraw consent for such processing of data; (5) any monetary consideration the entity receives in connection with such processing; (6) an acknowledgement that providing consent will not affect the consumer's experience of using the entity's services; (7) the expiration date of the consent; (8) the mechanism by which the consumer can revoke the consent; (9) the mechanism by which the consumer can access or delete the consumer's data; (10) any other information material to the consumer's decision regarding consent; and (11) the signature of the consumer or that of a parent or guardian for a minor. If the entity requests consent for multiple categories of processing activities, the entity shall allow the consumer to provide or withhold consent for each category. The entity shall also provide an effective, efficient, and easy-to-use mechanism by which the consumer can revoke consent.

Section 6 is new material entitled "Rights of Access – Correction – Deletion." This section provides that a covered entity shall provide the consumer the right to (1) access the consumer's personal data that is processed by the covered entity; (2) access all the information pertaining to the processing of the consumer's personal data; (3) transmit the personal data to another covered entity; (4) request a covered entity to stop processing, correct, or delete the consumer's personal data. The entity shall provide the consumer with clear and conspicuous means to exercise these rights and shall comply with a consumer's request to exercise these rights within 45 days of a request. A consumer's request to delete or cancel the consumer's online account shall be treated as a request to delete the consumer's personal data, and within 30 days of receiving such a request, the covered entity shall (1) delete all personal data, except to the extent necessary to comply with the entity's legal obligations and (2) take reasonable measures to communicate the request to each service provider or third party that processed the consumer's personal data.

Section 7 is new material entitled "Data Processing Agreements" and provides that a service provider that processes personal data on behalf of a covered entity shall enter into written data-processing agreements with the covered entity to ensure that the data will be processed consistent with the Act.

Section 8 is new material entitled "Prohibition of Waiving of Rights and Retaliatory Denial of Service" and provides that a covered entity shall not retaliate against a consumer for exercising rights guaranteed by the Act, including charging that consumer different prices for goods or services, denying good or services, or providing a different level of quality of such goods or services. Any provision of any contract purporting to waive or limit any right under the Act shall be deemed contrary to public policy and be void and unenforceable, without affecting the validity or enforceability of the remaining provisions of the contract.

Section 9 is new material entitled "Violations – Enforcement – Penalties – Claims for Violations." Subsection A provides that a violation of the Act constitutes a rebuttable presumption of harm and an entity that violates the Act shall be (1) subject to injunctive relief; (2) liable for a civil penalty up to $2,500 per affected consumer for each negligent violation; or (3) liable for a civil penalty up to $7,500 per affected consumer for each intentional violation. A consumer who claims a violation of the Act may maintain an action "in any district court." The attorney general or a district attorney may also institute a civil action if they have reasonable cause to believe a violation has occurred or to prevent a violation of the Act. This section also lists the factors a district court should consider in granting relief to a consumer including the gravity and duration of the violation, whether it was intentional or negligent, and whether the entity took any steps to mitigate the damage.

Section 10 is new material entitled "Exceptions" which provides that covered entities shall be deemed in compliance with the Act, in regards to data covered by certain federal data privacy laws, if the entity is in compliance with the data privacy requirements of those law which include Title V of the Gramm-Leach-Bliley Act, the Fair Credit Reporting Act, and six other

specified federal laws.

Section 11 is new material entitled "Limitations" and provides that nothing in the Act shall be construed to apply to (1) information processed by local, state or federal government or municipal corporations; or (2) to restrict a covered entity's ability to comply with civil or criminal subpoenas, cooperate with law enforcement, establish a legal defense, take immediate steps to protect and life or physical safety of a consumer in an emergency situation, and prevent or detect security incidents or malicious or deceptive or illegal activity.

Section 12 is new material entitled "Severability" and provides that if any part of the Act is held invalid, that the remainder of its applications shall not be affected.

Section 13 is new material entitled "Effective Date" which provides that the Act will be effective on July 1, 2026.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

None for this agency.

SIGNIFICANT ISSUES

None noted.

PERFORMANCE IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

n/a

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

n/a