

LFC Requester:

Henry Jacobs

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 1/24/2026

Check all that apply:

Bill Number: SB 53

Original x Correction
Amendment Substitute

Sponsor: Sens. Angel M. Charley and
Leo Jaramillo; Rep. Marianna
Anaya

**Agency Name and
Code Number:** 305 – New Mexico
Department of Justice

**Short
Title:** COMMUNITY & HEALTH
INFO SAFETY & PRIVACY
ACT

**Person Writing
Analysis:** Allison Johnson

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

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

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: The Community and Health Information Safety and Privacy Act establishes privacy protections and rights for consumers; imposes requirements and limitations on businesses offering online products or services to consumers in New Mexico, as well as on third parties who process personal information for those businesses; and provides enforcement mechanisms for violations of the Act.

Section 1: Short title.

Section 2: Definitions.

Section 3: This section establishes mandatory privacy protections for online platforms. It requires a covered entity to configure default privacy settings to offer the highest level of privacy; clearly and conspicuously provide privacy policies; provide tools to help consumers exercise privacy rights and report concerns; and implement reasonable data security practices. It also establishes that a covered entity must provide settings that permit the consumer to disable notifications, choose between a privacy-protective feed and a profile-based feed, and limit contact by unknown individuals. It establishes that a covered entity must establish default settings for minors that limit contact by unknown users, disable notifications at nighttime, and use a privacy protective feed.

Section 4: This section imposes restrictions on how covered entities process consumer data. It prohibits:

- Profiling consumers by default unless necessary for the service’s core functionality;
- Processing personal data beyond what is required for the requested service, for communications other than advertising, or for certain advertising if the consumer has provided opt-in consent;
- Processing sensitive personal data for the purposes of targeted advertising, first-party advertising, or the brokerage of personal data, or for other purposes unless necessary for the requested service or if the consumer has provided opt-in consent;
- Tracking and processing consumers’ geolocation data without consent;
- Implementing a geofence around an entity that provides health care or immigration services to track consumers seeking those services;
- Using dark patterns to cause a consumer to provide personal data beyond what is reasonably expected for the requested service; and
- Processing personal data in a way that discriminates on the basis of childbirth or

condition related to pregnancy or childbirth, color, disability, gender, gender identity, mental health, national origin, physical health condition or diagnosis, race, religion, sex life, or sexual orientation.

Section 5: This section establishes that a covered entity's opt-in mechanism must clearly and conspicuously disclose certain information, including categories of personal data to be collected or shared, the purpose of processing that data, the sharing of that data, how a consumer can withdraw consent, any compensation the covered entity could receive in connection with processing that data, the expiration date of that consent that may be up to one year from the date of consent, how a consumer can request data deletion, and any other material information. It requires separate consent for different categories of activities and effective mechanisms to revoke consent.

Section 6: This section provides that covered entities shall provide a consumer the right to access personal data, transmit the consumer's data to another covered entity when feasible, and correct or delete personal data.

Section 7: This section requires that a service provider that processes personal data on behalf of certain other entities must enter into a written agreement ensuring compliance with the requirements of this act.

Section 8: This section prohibits a covered entity from retaliating against consumers for exercising their rights under this law. It also provides that any contractual term that purports to waive or limit rights under this law shall be void and unenforceable.

Section 9: This section provides that a violation of this law constitutes a rebuttable presumption of harm. It provides remedies including injunctive relief and civil penalties. It provides that an injured consumer may sue for damages and equitable or other injunctive relief. It provides that the attorney general or a district attorney may institute a civil action under this law.

Section 10: This section provides that a covered entity or service provider shall be deemed in compliance with this law if the entity is in compliance with certain federal privacy laws.

Section 11: This section provides that nothing in this law shall be construed to apply to information processed by governmental entities or to restrict a covered entity or service provider's actions in certain other contexts, including compliance with subpoenas and cooperation with law enforcement.

Section 12: Severability.

Section 13: Effective date of July 1, 2026.

FISCAL IMPLICATIONS

This law grants enforcement authority to the NMDOJ. In order to effectively discharge these additional responsibilities, the NMDOJ may require additional funding for additional full-time employee positions. However, SB 53 does not provide any additional appropriation to the NMDOJ to fulfill these additional responsibilities.

SIGNIFICANT ISSUES

To the extent that the law would require covered entities to make certain statements or regulate the content of their communications or advertisements, it could raise potential First Amendment concerns. *See Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n of N.Y.*, 447 U.S. 557, 562-64 (1980) (holding that the First Amendment provides some protection for commercial speech but less protection than is granted to other forms of expression).

This bill could raise preemption concerns under federal privacy statutes, although the bill provides exceptions where covered entities or service providers are in compliance with certain federal statutes.

Section 5(A) requires certain clear and conspicuous disclosures in an opt-in mechanism. Section 5(A)(11) appears to require disclosure of a consumer's signature. While unclear, it appears that this language may have been intended to require the collection of signatures instead of clear and conspicuous disclosure of signatures.

PERFORMANCE IMPLICATIONS

Because the law grants additional authorities to the NMDOJ without a corresponding appropriation of funds, the NMDOJ's performance in its existing areas of responsibility could be impacted without the allocation of additional funding.

ADMINISTRATIVE IMPLICATIONS

Because the law grants additional authorities to the NMDOJ without a corresponding appropriation of funds, the NMDOJ's performance in its existing areas of responsibility could be impacted without the allocation of additional funding.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

N/A.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.