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## FISCAL IMPACT REPORT

**BILL NUMBER:** Senate Bill 53

**SHORT TITLE:** Community & Health Info Safety & Privacy Act

**SPONSOR:** Sens. Charley, Stefanics and Jaramillo/Reps. Chandler, Anaya, and Herndon

**LAST ORIGINAL**  
**UPDATE:** \_\_\_\_\_ **DATE:** 1/21/26 **ANALYST:** Jacobs

### REVENUE\* (dollars in thousands)

Type	FY26	FY27	FY28	FY29	FY30	Recurring or Nonrecurring	Fund Affected
Revenue from Fines	No fiscal impact	At least \$2.5	At least \$2.5	At least \$2.5	At least \$2.5	Recurring	General Fund

Parentheses indicate revenue decreases.

\*Amounts reflect most recent analysis of this legislation.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Courts</b>	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
<b>District Attorneys</b>	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
<b>Attorney General</b>	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
<b>Total</b>	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 214 and Senate Bill 192

### Sources of Information

LFC Files

Agency or Agencies Providing Analysis  
 Administrative Office of the District Attorneys  
 Law Offices of the Public Defender  
 New Mexico Attorney General  
 Department of Information Technology

Agency or Agencies That Were Asked for Analysis but did not Respond  
 Economic Development Department

## SUMMARY

### Synopsis of Senate Bill 53

The effective date of this bill is July 1, 2026.

Section 1 entitles the bill the “Community and Health Information Safety and Privacy Act.”

Section 2 provides definitions. It differentiates between “targeted” advertising based on a consumer or device’s predicted preferences, “first-party” advertising using a company’s internal data, and “contextual” advertising that does not vary based on the recipient’s identity. Unless otherwise stated, the prohibitions described in the bill below apply primarily to “targeted” and “first-party” advertising.

Section 3 outlines consumer data protection requirements for online platforms. Online platforms would have to set default privacy settings to the highest level, publicly provide privacy information in a clear and conspicuous manner, and implement practices that protect the confidentiality, integrity, and accessibility of personal data. When an online platform cannot confirm if a user is a minor, it must allow the consumer to disable notifications, to choose a private online feed, and to choose to disable contact with unknown individuals unless the consumer initiates contact first. If an online platform can confirm the user is a minor, it must establish default settings that disable contact with unknown users unless the consumer first initiates contact, disables notifications between 10 p.m. and 6 a.m. Mountain Time, and use a privacy-protective online feed.

Section 4 describes the prohibition of certain data practices. It would limit the collection of personal data, with additional restrictions for sensitive personal data, unless the consumers provide opt-in consent. If the entity receives consent, it must provide a conspicuous and accessible mechanism for a consumer to revoke consent whenever they see fit. SB53 would ban profiling consumers by default, except when necessary for requested services. It would ban “geofences” commonly used around health care and immigration service providers to identify or track consumers accessing these services. SB53 would ban the use of “dark pattern” user interfaces that inaccurately represent user inputs and corresponding outputs and manipulate consumers into providing personal data.

Section 5 describes requirements for allowing consumers to opt-in to personal data collection and sharing. The covered entities must clearly and conspicuously disclose the categories of data collected or shared, the entities with which the data is shared, how a consumer can withdraw consent, any monetary incentives for the entity, and any other information material to the consumer’s decision. An opt-in would also require a consumer’s signature. According to the bill, the entity must allow the provision or denial of consent for each individual category of processing.

Section 6 establishes that consumers would have the right to access their own data in a concise and informative format. Consumers would have access to information on how their data is being processed as well as the ability to share their data with desired entities, if technically feasible. Consumers would also have the right to request a correction or deletion of their personal data. The bill outlines timelines for compliance with requests to access data, delete data, or delete an account.

Section 7 requires service providers processing data on behalf of covered entities to enter into a written agreement to ensure compliance with SB53.

Section 8 prohibits retaliatory fees or denial of goods in response to the exercise of a right outlined in SB53. It would also prohibit any agreement that would purport to waive the bill's provisions.

Section 9 outlines enforcement. It provides that a violation of SB53 constitutes a rebuttable presumption of harm. Each "negligent" violation of the act is subject to a \$2,500 fine while a "intentional" violation will cost a covered entity \$7,500. Consumers, the attorney general, and district attorneys may all bring cases in civil court under SB53.

Section 11 describes certain exceptions to SB53 if the provider is compliant with federal law.

Section 12 provides that SB53 does not apply to government agencies collecting and processing data. It also provides nothing in SB53 shall be construed to interfere with normal business operations or law enforcement activity.

## FISCAL IMPLICATIONS

The New Mexico Attorney General (NMAG) reports the bill would impose additional enforcement authority on the agency and may require staffing. The bill does not contain an appropriation.

District courts could experience a minor increase in civil hearings and a corresponding increase in costs.

The Administrative Office of the District Attorneys does not anticipate major fiscal implications for district attorney offices.

## SIGNIFICANT ISSUES

NMAG provides:

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.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

This bill relates to House Bill 214, “Consumer Information and Data Protection Act” and Senate Bill 192, “Data Broker Privacy Act.”

HJ/SEC/dw/ct