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Office

H.B. 357
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 357's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Rep. Ghanbari

Local Impact Statement Procedure Required: No

Jessica Murphy, Senior Budget Analyst

Highlights

- The Attorney General's Office may experience an increase in operating costs to investigate and enforce civil violations of the bill's mobile texting service requirements. The magnitude of such costs will depend on the final implementation rules adopted by the Department of Public Safety (discussed in the next bullet point) and, if the Office opts to pursue such civil actions. It is uncertain if the monetary forfeitures (\$10 per user per month on a defendant) will be directed to the Attorney General to offset these costs.
- The Department of Public Safety may incur no more than minimal one-time costs to exert staff time and resources in order to adopt rules within 90 days of the bill's effective date.

Detailed Analysis

The bill requires United States Phone Number Linked Mobile Texting Services¹ to ensure that: (1) text message data is encrypted and sent over a network that supports the encryption, (2) media content is sent and received in its original quality without degradation, and (3) text message senders and receivers receive real-time notifications that a person is typing a message to them and whether a sent message has been read, if the users have enabled such functions on their devices. These security measures apply to all text messages, including group chats, regardless of

¹ "United States Phone Number Linked Mobile Texting Service" is defined in the bill as the default software on a smartphone that enables consumers to send text messages to and receive text messages from, all or substantially all, text-capable United States telephone numbers.

the operating system (iOS or Android OS), and must be implemented within six months after the effective date of the rules adopted by the Director of Public Safety, under the bill.

Attorney General

The bill permits the Attorney General to bring a civil action against any person² to enforce the mobile texting service requirements discussed above. According to the Attorney General's Office, enforcing the bill's requirements would likely involve litigation against major corporations, which are inherently more costly than lawsuits against individuals in terms of time and money. However, the manner and extent to which the Attorney General may voluntarily pursue such civil enforcement actions will ultimately depend on the final rules required to be adopted by the Director of Public Safety.

Presumably, in scenarios of noncompliance, legal action would be initiated against the text service providers responsible for implementing the security protections. However, to verify real-time adherence, it might become necessary for the Attorney General to examine the personal mobile devices of individuals not directly involved in the lawsuit. This approach could increase the overall scope, complexity, and cost of these cases.

Such civil actions would be brought in any court of common pleas having jurisdiction over the person alleging harm. If a court determines there has been a violation, it must issue an order enjoining the unlawful activity and impose a forfeiture of \$10 per user per month in which the texting service was in violation. The bill does not specify which fund or party the money collected from the forfeiture would be credited to or if those funds could be used to offset the additional operating and investigative costs of the Attorney General.

Department of Public Safety

The bill requires the Department of Public Safety to adopt rules to implement the bill's provisions not later than 90 days after the bill's effective date. The Department may incur no more than minimal one-time costs to exert staff time and resources to adopt these rules.

² "Person" is defined in the bill as any natural person, trust, firm, joint stock company, corporation, company, partnership, limited liability company, association, or decentralized autonomous organization.