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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

S.B. 175
136th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 175's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Sen. Patton

Local Impact Statement Procedure Required: No

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Highlights

- The bill requires application distribution developers (i.e., app stores), developers of covered applications, and certain others to comply with specified process regulations to ensure that minors cannot engage in restricted, adult-only activities.
- The bill could lead to an increase in enforcement actions, including civil actions, taken by the Attorney General to enforce the provisions of the bill. This work will likely be handled by the Consumer Protection Section. Costs to investigate and enforce violations will depend on the number of complaints filed/reported, investigations performed, and enforcement actions taken. There may also be new causes of action in courts with jurisdiction over civil cases.
- The extent to which enforcement costs might be offset by the penalties (up to \$1,000 per violation) is uncertain. The timing and magnitude of this revenue is unpredictable. As the bill does not contain any special crediting provisions, penalty revenue, if collected, would be deposited in the GRF. The Attorney General's Office is uncertain if revenues will adequately cover the potential costs created by the bill.

Detailed Analysis

The bill regulates, beginning one year after its effective date, the distribution of covered applications to ensure that minors cannot engage in restricted, adult-only activities. It requires developers of covered applications to obtain verifiable parental consent, make a good faith effort to prevent access to content that is not suitable for minors, and refrain from targeted advertising to minors. The bill also includes related requirements for application distribution providers (i.e., app stores), operating system providers, internet browsers, and search engines, which are detailed in the [LSC bill analysis](#). A violator may be assessed civil penalties in an Attorney General action.

Fiscal effects

The Attorney General has the exclusive right to enforce the provisions of the bill. The bill specifies that there is no private cause of action. The Attorney General may initiate an action and seek civil penalties of up to \$1,000 per violation from noncompliant entities, including application distribution providers, operating system providers, internet browsers, or search engines. While the bill does not specify where these penalties would be credited, the revenue would likely be deposited into the GRF.

The Attorney General's Office anticipates the bill will apply to a very large number of entities, although the exact number is difficult to determine. For example, based on the millions of apps available on Google Play and Apple, the number of affected application developers could be in the millions.

The amount and timing of any enforcement costs depends on the compliance of the regulated entities, the Attorney General's discretion on pursuing enforcement, and the outcomes of any civil actions brought. The Consumer Protection Section, which is funded by the Consumer Protection Enforcement Fund (Fund 6310), would likely handle the legal work. Due to the wide range of industries and provisions, the section anticipates a significant increase in its investigative and, potentially, litigation workloads. However, the bill provides numerous defenses against liability for violations generally when there is a good faith effort to comply.

The Attorney General's Office has noted some ambiguities in how the bill may be enforced. For instance, the bill does not grant the Attorney General's Office specific investigative authority, which could make obtaining evidence of violations challenging. Additionally, the bill does not specify the types of actions that can be filed, where they can be filed, or which court can impose the penalty. These factors may add to the complexity of cases and potentially limit the number of enforcement actions pursued.

While some courts may experience new case filings, the associated costs would likely be at least partially offset by filing fees. Court action would most likely be a last resort, however, because the bill's civil penalty of up to \$1,000 is much lower than the \$25,000 penalty permitted under the Consumer Sales Practices Act.¹

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¹ For violations for the Consumer Sales Practices Act, the court is permitted to impose a civil penalty of up to between \$5,000 and \$25,000, depending on the nature of the violation. The civil penalties are distributed as follows: three-fourths, or 75%, to the state's existing Consumer Protection Enforcement Fund (Fund 6310) and one-fourth, or 25%, to the treasury of the county where the action is brought.