

BILL ANALYSIS

C.S.H.B. 2174
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Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been observed that online pornographic material has become increasingly accessible to children. The negative impact of exposure to such material for these young users can be associated with certain negative emotional, psychological, and physical health outcomes. C.S.H.B. 2174 seeks to combat this problem by creating civil liability for certain actions that allow children younger than 13 years of age to access pornographic material online.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2174 amends the Civil Practice and Remedies Code to require an organization, as that term is defined under the Business Organizations Code, that owns a website, including a social media website, to include a mechanism on the website that prevents a user from accessing pornographic material on the website unless the user verifies that they are 13 years of age or older. An organization may be held liable for damages if it does not include such a mechanism on its website. Additionally, a person who uploads pornographic material to a website may be held liable for damages if an individual younger than 13 years of age accesses the material on the website.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2174 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises the original's provisions establishing the liability of website owners for allowing children access to pornographic material as follows:

- makes the provisions applicable to organizations that own a website, rather than persons who own a website as in the original;

- includes a requirement absent from the original for such an organization to include a mechanism on the website that prevents a user from accessing pornographic material on the website unless the user verifies that they are 13 years of age or older; and
- provides for an organization to be held liable for damages if the organization does not include that mechanism on its website, whereas the original provided for a website owner to be held liable if an individual younger than 18 years of age accesses pornographic material on the website.

The substitute also revises the original's provision establishing the liability of persons who upload pornographic material that is accessed by children to change the age of the children whose access to that material triggers the liability from younger than 18 years of age to younger than 13 years of age.