

Department of Legislative Services  
Maryland General Assembly  
2025 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 394  
Judiciary

(Delegate Grammer, *et al.*)

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Civil Actions - Distribution of Obscene Material to Minors and Age Verification  
Information

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This bill requires a “commercial entity” that knowingly and intentionally distributes obscene material on the Internet from a website that contains a substantial portion of obscene material (more than one-third of the total material on the website) to perform “reasonable age verification methods” to verify the age of individuals attempting to access the material. A commercial entity or third party that performs a required age verification may not retain any identifying information about individuals attempting to access obscene material after access to the material has been granted or denied. The bill may not be construed to impose liability on an internet service provider or other specified entities and does not apply to any *bona fide* news or public interest broadcast, website video, report, or event and may not be construed to affect the rights of any “news-gathering organization employees.” A person may bring a civil action against a commercial entity that violates the age-verification requirement or prohibited data retention provisions for damages resulting from a minor’s accessing of obscene material or the retention of identifying information of an individual. A court may award costs and reasonable attorney’s fees to a prevailing plaintiff.

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Fiscal Summary

**State Effect:** The bill is not anticipated to materially affect State finances or operations.

**Local Effect:** The bill is not anticipated to materially affect local government finances or operations.

**Small Business Effect:** Potential meaningful.

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## Analysis

**Bill Summary:** The bill incorporates the definition of “obscene” under § 11-203 of the Criminal Law Article and defines (or provides additional context for) numerous terms. Notably, “reasonable age verification methods” specifically includes verifying that a person seeking to access material is at least age 18 by requiring the person attempting to access the material to comply with a commercial age verification system that verifies using at least one of the following ways: (1) government-issued identification or (2) any commercially reasonable method that relies on public or private transactional data to verify that the person attempting to access the information is at least age 18.

**Current Law:** Section 11-203 of the Criminal Law Article prohibits a person from willfully or knowingly displaying or exhibiting or engaging in the business of displaying, exhibiting, selling, showing, advertising for sale, or distributing to a minor an “item” (1) the cover or content of which is principally made up of an obscene description or depiction of illicit sex or (2) that consists of an obscene picture of a nude or partially nude figure. If a newsstand or other place of business is frequented by minors, the owner, operator, franchisee, manager, or an employee with managerial responsibility may not openly and knowingly display at the place of business an item whose sale, display, exhibition, showing, or advertising is prohibited as specified above.

Violators are guilty of a misdemeanor, punishable by imprisonment for up to one year and/or a \$1,000 maximum fine for a first violation and imprisonment for up to three years and/or a \$5,000 maximum fine for each subsequent violation.

Under § 11-203, “obscene” means (1) that the average adult applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest; (2) that the work depicts specified sexual conduct in a way that is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material; and (3) that the work, taken as a whole, lacks serious artistic, educational, literacy, political, or scientific value. An “item” means a still picture, photograph, book, pocket book, pamphlet, magazine, videodisc, videotape, video game, film, computer disc, or recorded telephone message.

**Small Business Effect:** To the extent that small businesses in the State are subject to the bill’s provisions (including potential civil litigation) and depending on the cost of compliance with the age verification requirements under the bill, the bill may have a meaningful impact on small businesses.

## **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced during the last three years.

**Designated Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Department of Legislative Services

**Fiscal Note History:** First Reader - February 4, 2025  
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