

1.1 ..... moves to amend H.F. No. 2257, the first engrossment, as follows:

1.2 Page 1, line 14, delete "4" and insert "3"

1.3 Page 1, line 19, before "likely" insert "reasonably"

1.4 Page 2, after line 11, insert:

1.5 "(c) "Age-appropriate" means a recognition of the distinct needs and diversities of  
1.6 children at different age ranges. In order to help support the design of online services,  
1.7 products, and features, a business should take into account the unique needs and diversities  
1.8 of different age ranges, including the following developmental stages: zero to five years of  
1.9 age or "preliterate and early literacy"; six to nine years of age or "core primary school years";  
1.10 ten to 12 years of age or "transition years"; 13 to 15 years of age or "early teens"; and 16  
1.11 to 17 years of age or "approaching adulthood.""

1.12 Page 2, after line 23, insert:

1.13 "(e) "Best interests of children" means the use, by a business, of the personal data of a  
1.14 child or the design of an online service, product, or feature in a way that:

1.15 (1) will not benefit the business to the detriment of the child; and

1.16 (2) will not result in:

1.17 (i) reasonably foreseeable and material physical or financial harm to the child;

1.18 (ii) reasonably foreseeable and severe psychological or emotional harm to the child;

1.19 (iii) a highly offensive intrusion on the reasonable privacy expectations of the child; or

1.20 (iv) discrimination against the child based upon race, color, religion, national origin,  
1.21 disability, sex, or sexual orientation."

1.22 Page 2, line 30, delete "substantial"

2.1 Page 2, line 31, delete "effect" and insert "purpose"

2.2 Page 3, line 1, delete "and mitigate"

2.3 Page 3, delete lines 2 and 3 and insert "compliance with the duty to act in the best interests  
2.4 of children and shall include a plan to ensure that all online products, services, or features  
2.5 provided by the business are designed and offered in a manner consistent with the best  
2.6 interests of children reasonably likely to access the online product, service, or feature. Such  
2.7 a plan shall include a description of steps the business has taken and will take to comply  
2.8 with the duty to act in the best interests of children."

2.9 Page 3, after line 14, insert:

2.10 "(m) "Derived data" means assumptions, correlations, inferences, predictions, or  
2.11 conclusions based on data about a child or a child's device."

2.12 Page 3, delete lines 15 to 30

2.13 Page 4, line 4, after "information" insert ", including derived data," and after "linkable"  
2.14 insert ", alone or in combination with other information,"

2.15 Page 4, line 13, after "means" insert "to conduct or direct"

2.16 Page 4, line 15, delete "or" and after "modification" insert ", or otherwise handling"

2.17 Page 4, after line 15, insert:

2.18 "(r) "Product experimentation results" means the data that a business collects to  
2.19 understand the experimental impact of its products."

2.20 Page 4, after line 19, insert:

2.21 "(t) "Reasonably likely to be accessed by children" means an online service, product,  
2.22 or feature that it is reasonable to expect would be accessed by children based on any of the  
2.23 following indicators:

2.24 (1) the online service, product, or feature is directed to children, as defined by the  
2.25 Children's Online Privacy Protection Act, United States Code, title 15, section 6501 et seq.  
2.26 and the Federal Trade Commission rules implementing that act;

2.27 (2) the online service, product, or feature is determined, based on competent and reliable  
2.28 evidence regarding audience composition, to be routinely accessed by a significant number  
2.29 of children;

2.30 (3) the online service, product, or feature contains advertisements marketed to children;

3.1 (4) the online service, product, or feature is substantially similar or the same as an online  
 3.2 service, product, or feature subject to clause (2);

3.3 (5) a significant amount of the audience of the online service, product, or feature is  
 3.4 determined, based on internal company research, to be children; or

3.5 (6) that the business knew or should have known that a significant number of users are  
 3.6 children, provided that, in making this assessment, the business shall not collect or process  
 3.7 any personal data that is not reasonably necessary to provide an online service, product, or  
 3.8 feature with which a child is actively and knowingly engaged."

3.9 Reletter the paragraphs in sequence

3.10 Page 5, after line 8, insert:

3.11 "Sec. 4 **[3250.025] INFORMATION FIDUCIARY.**

3.12 Notwithstanding section 325O.04, paragraph (a), any business that operates in the state  
 3.13 of Minnesota and processes children's data in any capacity must do so in a manner consistent  
 3.14 with the best interests of children."

3.15 Page 6, line 6, delete the second "or"

3.16 Page 6, line 10, delete the period and insert "; or"

3.17 Page 6, after line 10, insert:

3.18 "(4) a business whose principal business is the origination of journalism, and has a  
 3.19 significant portion of its workforce consisting of professional journalists.

3.20 (c) A business that is exempt from this chapter under paragraph (b), clause (4), must  
 3.21 annually complete a data protection impact assessment that complies with section 325O.04,  
 3.22 paragraph (b)."

3.23 Page 6, delete section 5 and insert:

3.24 "Sec. .... **[3250.04] BUSINESS OBLIGATIONS.**

3.25 Subdivision 1. Requirements for businesses. (a) A business subject to this chapter  
 3.26 must:

3.27 (1) complete a data protection impact assessment for any new online service, product,  
 3.28 or feature that is reasonably likely to be to accessed by children, and maintain documentation  
 3.29 of the data protection impact assessment as long as the online service, product, or feature  
 3.30 is reasonably likely to be accessed by children;

4.1 (2) review and modify all data protection impact assessments as necessary to account  
4.2 for material changes to processing pertaining to the online service, product, or feature;

4.3 (3) within five business days of a written request by the attorney general, provide to the  
4.4 attorney general a list of all data protection impact assessments the business has completed;

4.5 (4) within seven business days of a written request by the attorney general or by a date  
4.6 otherwise specified by the attorney general, provide the attorney general with a copy of any  
4.7 data protection impact assessment;

4.8 (5) configure all default privacy settings provided to children by the online service,  
4.9 product, or feature to settings that offer a high level of privacy, unless the business can  
4.10 demonstrate a compelling reason that a different setting is in the best interests of children;

4.11 (6) provide any privacy information, terms of service, policies, and community standards  
4.12 concisely, prominently, and using clear language suited to the age of children reasonably  
4.13 likely to access that online service, product, or feature; and

4.14 (7) provide prominent, accessible, and responsive tools to help children, or if applicable  
4.15 their parents or guardians, exercise their privacy rights and report concerns.

4.16 (b) A data protection impact assessment required by this section must identify the purpose  
4.17 of the online service, product, or feature, explain how it uses children's personal data, and  
4.18 determine whether the online service, product, or feature that is reasonably likely to accessed  
4.19 by children is designed and offered in an age-appropriate manner consistent with the best  
4.20 interests of children. A data protection impact assessment must assess each of the following  
4.21 factors:

4.22 (1) whether algorithms used by the product, service, or feature would result in reasonably  
4.23 foreseeable and material physical or financial harm to the child; reasonably foreseeable and  
4.24 extreme psychological or emotional harm to the child; a highly offensive intrusion on the  
4.25 reasonable privacy expectations of the child; or discrimination against the child based upon  
4.26 race, color, religion, national origin, disability, sex, or sexual orientation;

4.27 (2) whether the design of the online service, product, or feature could lead to children  
4.28 experiencing or being targeted by contacts on the online service, product, or feature that  
4.29 would result in reasonably foreseeable and material physical or financial harm to the child;  
4.30 reasonably foreseeable and extreme psychological or emotional harm to the child; a highly  
4.31 offensive intrusion on the reasonable privacy expectations of the child; or discrimination  
4.32 against the child based upon race, color, religion, national origin, disability, sex, or sexual  
4.33 orientation;

5.1 (3) whether the design of the online service, product, or feature could permit children  
5.2 to witness, participate in, or be subject to conduct on the online service, product, or feature  
5.3 that would result in reasonably foreseeable and material physical or financial harm to the  
5.4 child; reasonably foreseeable and extreme psychological or emotional harm to the child; a  
5.5 highly offensive intrusion on the reasonable privacy expectations of the child; or  
5.6 discrimination against the child based upon race, color, religion, national origin, disability,  
5.7 sex, or sexual orientation;

5.8 (4) whether the design of the online service, product, or feature is reasonably expected  
5.9 to allow children to be party to or exploited by a contact on the online service, product, or  
5.10 feature that would result in reasonably foreseeable and material physical or financial harm  
5.11 to the child; reasonably foreseeable and extreme psychological or emotional harm to the  
5.12 child; a highly offensive intrusion on the reasonable privacy expectations of the child; or  
5.13 discrimination against the child based upon race, color, religion, national origin, disability,  
5.14 sex, or sexual orientation;

5.15 (5) whether targeted advertising systems used by the online service, product, or feature  
5.16 would result in reasonably foreseeable and material physical or financial harm to the child;  
5.17 reasonably foreseeable and extreme psychological or emotional harm to the child; a highly  
5.18 offensive intrusion on the reasonable privacy expectations of the child; or discrimination  
5.19 against the child based upon race, color, religion, national origin, disability, sex, or sexual  
5.20 orientation;

5.21 (6) whether the online service, product, or feature uses system design features to increase,  
5.22 sustain, or extend use of the online service, product, or feature by children, including the  
5.23 automatic playing of media, rewards for time spent, and notifications, that would result in  
5.24 reasonably foreseeable and material physical or financial harm to the child; reasonably  
5.25 foreseeable and extreme psychological or emotional harm to the child; a highly offensive  
5.26 intrusion on the reasonable privacy expectations of the child; or discrimination against the  
5.27 child based upon race, color, religion, national origin, disability, sex, or sexual orientation;

5.28 (7) whether, how, and for what purpose the online product, service, or feature collects  
5.29 or processes personal data of children, and whether those practices would result in reasonably  
5.30 foreseeable and material physical or financial harm to the child; reasonably foreseeable and  
5.31 extreme psychological or emotional harm to the child; a highly offensive intrusion on the  
5.32 reasonable privacy expectations of the child; or discrimination against the child based upon  
5.33 race, color, religion, national origin, disability, sex, or sexual orientation; and

6.1 (8) whether and how product experimentation results for the online product, service, or  
6.2 feature reveal data management or design practices that would result in reasonably  
6.3 foreseeable and material physical or financial harm to the child; reasonably foreseeable and  
6.4 extreme psychological or emotional harm to the child; a highly offensive intrusion on the  
6.5 reasonable privacy expectations of the child; or discrimination against the child based upon  
6.6 race, color, religion, national origin, disability, sex, or sexual orientation.

6.7 (c) A data protection impact assessment conducted by a business for the purpose of  
6.8 compliance with any other law complies with this section if the data protection impact  
6.9 assessment meets the requirement of this chapter.

6.10 (d) A single data protection impact assessment may contain multiple similar processing  
6.11 operations that present similar risk only if each relevant online service, product, or feature  
6.12 is addressed.

6.13 (e) For purposes of estimating a child's age, a business must only process the minimal  
6.14 amount of personal data reasonably necessary to provide the online service, product, or  
6.15 feature with which the child is actively and knowingly engaged.

6.16 Subd. 2. **Prohibition on businesses.** A business that provides an online service, product,  
6.17 or feature reasonably likely to be accessed by children must not:

6.18 (1) process the personal data of any child in a way that is inconsistent with the best  
6.19 interests of children reasonably likely to access the online service, product, or feature;

6.20 (2) profile a child by default unless both of the following criteria are met:

6.21 (i) the business can demonstrate it has appropriate safeguards in place to ensure that  
6.22 profiling is consistent with the best interests of children reasonably likely to access the  
6.23 online service, product, or feature; and

6.24 (ii) either of the following is true:

6.25 (A) profiling is necessary to provide the online service, product, or feature requested  
6.26 and only with respect to the aspects of the online service, product, or feature with which a  
6.27 child is actively and knowingly engaged; or

6.28 (B) the business can demonstrate a compelling reason that profiling is in the best interests  
6.29 of children;

6.30 (3) process any personal data that is not reasonably necessary to provide an online service,  
6.31 product, or feature with which a child is actively and knowingly engaged;

7.1 (4) if the end user is a child, process personal data for any reason other than a reason  
7.2 for which that personal data was collected;

7.3 (5) process any precise geolocation information of children by default, unless the  
7.4 collection of that precise geolocation information is strictly necessary for the business to  
7.5 provide the service, product, or feature requested and then only for the limited time that the  
7.6 collection of precise geolocation information is necessary to provide the service, product,  
7.7 or feature;

7.8 (6) process any precise geolocation information of a child without providing an obvious  
7.9 sign to the child for the duration of that collection that precise geolocation information is  
7.10 being collected;

7.11 (7) use dark patterns to cause children to provide personal data beyond what is reasonably  
7.12 expected to provide that online service, product, or feature to forego privacy protections,  
7.13 or to take any action that the business knows, or has reason to know, is not in the best  
7.14 interests of children reasonably likely to access the online service, product, or feature; or

7.15 (8) allow a child's parent, guardian, or any other consumer to monitor the child's online  
7.16 activity or track the child's location, without providing an obvious signal to the child when  
7.17 the child is being monitored or tracked.

7.18 Subd. 3. **Data practices.** (a) A data protection impact assessment collected or maintained  
7.19 by the attorney general under subdivision 1 is classified as nonpublic data or private data  
7.20 on individuals under section 13.02, subdivisions 9 and 12.

7.21 (b) To the extent any information contained in a data protection impact assessment  
7.22 disclosed to the attorney general includes information subject to attorney-client privilege  
7.23 or work product protection, disclosure pursuant to this section does not constitute a waiver  
7.24 of that privilege or protection."

7.25 Page 10, line 7, after "with" insert "this act and has fulfilled"

7.26 Page 10, line 8, delete "clauses (1) to (5)," and insert "paragraph (a), clause (1),"

7.27 Page 10, after line 16, insert:

7.28 "Sec. 8. [3250.06] LIMITATIONS.

7.29 Nothing in this chapter shall be interpreted or construed to:

7.30 (1) impose liability in a manner that is inconsistent with United States Code, title 47,  
7.31 section 230;

8.1 (2) prevent or preclude any child from deliberately or independently searching for or  
8.2 specifically requesting content;

8.3 (3) require a business to implement age-gating or other technical protection methods to  
8.4 prevent underage people from viewing a website or other content; or

8.5 (4) infringe on the existing rights and freedoms of children."

8.6 Page 10, line 18, delete "2024" and insert "2025"

8.7 Page 10, delete lines 19 to 22 and insert:

8.8 "(b) "Legacy product" means any online service, product, or feature that is likely to be  
8.9 accessed by children and that is offered to the public before July 1, 2025. By July 1, 2025,  
8.10 a business must complete a data protection impact assessment for all legacy products, unless  
8.11 the legacy product is exempt under paragraph (c). A business which is not in compliance  
8.12 with this paragraph is not eligible for the 90-day opportunity, provided under section 7,  
8.13 paragraph (c), of this act, to cure a violation related to a legacy product."

8.14 Page 10, line 24, delete "2024" and insert "2025"

8.15 Renumber the sections in sequence and correct the internal references

8.16 Amend the title accordingly