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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 4472

05/01/2018 Authored by Scott
The bill was read for the first time and referred to the Committee on Civil Law and Data Practices Policy

1.1 A bill for an act
1.2 relating to civil law; creating a social media bill of rights; creating a cause of action
1.3 and civil penalty for violations of the social media bill of rights; proposing coding
1.4 for new law in Minnesota Statutes, chapter 325E.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. 325E.62 SOCIAL MEDIA; DISCLOSURE OF PERSONAL
1.7 INFORMATION AND USE OF CONTENT.

1.8 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have
1.9 the meanings given.

1.10 (b) "Account holder" means a person who operates a social media account through a
1.11 social media platform.

1.12 (c) "Personally identifying information" means information that allows the person to be
1.13 identified or located, including:

1.14 (1) the person's first and last name, first initial and last name, first name and last initial,
1.15 or nickname;

1.16 (2) the person's birth date or Social Security number;

1.17 (3) the person's current or former home, school, or work address;

1.18 (4) the person's telephone number or e-mail address; or

1.19 (5) the person's geolocation data.

2.1 (d) "Social media platform" means any electronic medium, including a browser-based
2.2 or application-based interactive computer service, telephone network, or data network, that
2.3 allows users to create, share, and view user-created content.

2.4 (e) "Specific authorization" means a written or electronic acknowledgment obtained by
2.5 a social media platform from the account holder that at a minimum informs the account
2.6 holder:

2.7 (1) of the purpose of the specific authorization;

2.8 (2) of the intended use of any information being shared related to the authorization;

2.9 (3) whether the account holder may refuse, in whole or in part, to supply the specific
2.10 authorization;

2.11 (4) whether there are any known consequences from supplying or refusing to supply the
2.12 authorization; and

2.13 (5) of the identity of any other person or entity that may receive information related to
2.14 the account holder from the social media platform under the specific authorization.

2.15 (f) "Terms of service agreement" includes a social media platform's terms of service,
2.16 terms of use, or terms and conditions agreement, and includes a social media platform's
2.17 user rights and responsibilities policies and privacy policies.

2.18 (g) "User-created content" means data created by an account holder that is displayed on
2.19 the account holder's social media page or stored by the social media platform in the account
2.20 holder's account, including personally identifying information, education experience or
2.21 institution, volunteer or employment experience or institution, written posts, photographs,
2.22 video recordings, or audio recordings.

2.23 Subd. 2. **Title.** This section may be cited as the "Social Media Bill of Rights."

2.24 Subd. 3. **Social media account holder; rights.** (a) User-created content and data related
2.25 to the account of an account holder on a social media platform are the property of the account
2.26 holder.

2.27 (b) An account holder has the right to permanently delete the account holder's user-created
2.28 content on a social media platform. The social media platform shall not retain any
2.29 user-created content once the account holder has elected to permanently delete the
2.30 user-created content.

2.31 (c) An account holder has the right to permanently delete the account holder's account
2.32 on a social media platform. The social media platform shall not retain any user-created

3.1 content created, collected, or stored on the social media platform once the account holder
3.2 has elected to permanently delete the account.

3.3 (d) The option to permanently delete user-created content or an account must be available
3.4 directly to the account holder on the social media platform and must not require further
3.5 approval from the social media platform.

3.6 Subd. 4. **Social media platform; requirements and prohibitions.** (a) Prior to sharing
3.7 data related to an account holder's account with a third party, a social media platform must
3.8 obtain specific authorization from the account holder.

3.9 (b) A social media platform must obtain specific authorization from an account holder
3.10 to access data stored on an account holder's electronic device that is not part of the social
3.11 media platform.

3.12 (c) A social media platform shall not activate the video or audio features of an account
3.13 holder's electronic device without specific authorization from the account holder for each
3.14 instance of activation.

3.15 (d) A social media platform shall not share with a third party any data collected from
3.16 an account holder's electronic device, including but not limited to any data related to
3.17 telephone calls, text messages, electronic mail, or other electronic communications.

3.18 (e) A social media platform must make available to every account holder a list of sources
3.19 from which the social media platform obtains information related to the account holder and
3.20 a list of third parties with whom the social media platform shares that information.

3.21 (f) A social media platform must provide equal access to the social media platform
3.22 without bias against a user's race, color, creed, religion, gender, or political affiliation.

3.23 (g) Specific authorization provided under this section is valid for a period not to exceed
3.24 one year from the day it is provided. If the purpose or use of the information shared has
3.25 changed, the specific authorization provided by the account holder becomes invalid ten
3.26 business days after the change, and the social media platform must obtain a new specific
3.27 authorization from the account holder.

3.28 (h) This subdivision does not apply to data or user-created content that is shared through
3.29 a social media platform by an account holder.

3.30 Subd. 5. **Cause of action; remedies.** (a) An account holder has a cause of action against
3.31 a social media platform for violations of this section, or for violations of the terms of service
3.32 agreement of a social media platform, and an account holder may be awarded actual damages
3.33 and a civil penalty of up to \$25,000 for each violation of this section. Costs, disbursements,

4.1 and reasonable attorney fees may be awarded to a party awarded damages for a violation
4.2 of this section.

4.3 (b) A terms of service agreement between a social media platform and an account holder
4.4 that limits the legal remedies available under this section is void and unenforceable.

4.5 Subd. 6. **Liability; exceptions.** (a) No person shall be found liable under this section
4.6 when the data about a social media account is shared:

4.7 (1) for the purpose of a criminal investigation or prosecution that is otherwise lawful;

4.8 (2) for the purpose of, or in connection with, the reporting of unlawful conduct; or

4.9 (3) in legal proceedings and is consistent with common practice in civil proceedings
4.10 necessary for the proper functioning of the justice system, or protected by court order which
4.11 prohibits any further dissemination.

4.12 (b) This section does not alter or amend the liabilities and protections granted by United
4.13 States Code, title 47, section 230, and shall be construed in a manner consistent with federal
4.14 law.

4.15 (c) A cause of action arising under this section does not prevent the use of any other
4.16 cause of action or remedy available under the law.

4.17 Subd. 7. **Jurisdiction; venue.** (a) A court has jurisdiction over a cause of action filed
4.18 pursuant to this section if the plaintiff or defendant resides in this state.

4.19 (b) A cause of action arising under this section may be filed in either the county of
4.20 residence of the plaintiff or defendant.

4.21 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to causes
4.22 of action arising on or after that date.