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## A BILL FOR AN ACT

RELATING TO PROTECTION OF MINORS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4 **"CHAPTER**

5 **§ -A Definitions.** For the purpose of this chapter:  
6 "Addictive feed" means a website, online service, online  
7 application, or mobile application, or a portion thereof, in  
8 which multiple pieces of media generated or shared by users of a  
9 website, online services, online application, or mobile  
10 application, either concurrently or sequentially, are  
11 recommended, selected, or prioritized for display to a user  
12 based, in whole or in part, on information associated with the  
13 user or the user's device with automated prioritization based on  
14 engagement metrics, unless any of the following conditions are  
15 met, alone or in combination with one another:  
16 (1) The recommendation, prioritization, or selection is  
17 based on information that is not persistently



associated with the user or the user's device, and does not concern the user's previous interactions with media generated or shared by other users;

(2) The recommendation, prioritization, or selection is based on user-selected privacy or accessibility settings, or technical information concerning the user's device;

(3) The user expressly and unambiguously requested the specific media, media by the author, creator, or poster of media the user has subscribed to, or media shared by users to a page or group the user has subscribed to, provided that the media is not recommended, selected, or prioritized for display based, in whole or in part, on other information associated with the user or the user's device that is not otherwise permissible under this subdivision;

17 (4) The user expressly and unambiguously requested that  
18 specific media, media by a specified author, creator,  
19 or poster of media the user has subscribed to, or  
20 media shared by users to a page or group the user has  
21 subscribed to pursuant to paragraph (3) of this



1 subdivision, be blocked, prioritized or deprioritized  
2 for display, provided that the media is not  
3 recommended, selected, or prioritized for display  
4 based, in whole or in part, on other information  
5 associated with the user or the user's device that is  
6 not otherwise permissible under this subdivision;

7 (5) The media are direct and private communications;

8 (6) The media are recommended, selected, or prioritized  
9 only in response to a specific search inquiry by the  
10 user;

11 (7) The media recommended, selected, or prioritized for  
12 display is exclusively next in a pre-existing sequence  
13 from the same author, creator, poster, or source; or

14 (8) The recommendation, prioritization, or selection is  
15 necessary to comply with the provisions of this  
16 chapter and any regulations promulgated pursuant to  
17 this chapter.

18 "Addictive social media platform" means a website, online  
19 service, online application, or mobile application, that offers  
20 or provides users an addictive feed as a significant part of the



1 services provided by such website, online service, online  
2 application, or mobile application.

3 "Covered minor" means a user of a website, online service,  
4 online application, or mobile application in the State when the  
5 operator has actual knowledge the user is a minor.

6 "Covered operator" means any person, business, or other  
7 legal entity, who operates or provides an addictive social media  
8 platform.

9 "Covered user" means a user of a website, online service,  
10 online application, or mobile application in the State, not  
11 acting as an operator, or agent or affiliate of the operator, of  
12 such website, online service, online application, or mobile  
13 application, or any portion thereof.

14 "Media" means text, an image, or a video.

15 "Minor" means an individual under the age of eighteen.

16 "Parent" means parent or legal guardian.

17 § -B **Prohibition of addictive feeds.** (a) It shall be  
18 unlawful for a covered operator to provide an addictive feed to  
19 a covered user unless:



- (1) The covered operator has used commercially reasonable and technically feasible methods to determine that the covered user is not a covered minor; or
- (2) The covered operator has obtained verifiable parental consent to provide an addictive feed to a covered minor.

(b) The attorney general shall promulgate regulations specifying commercially reasonable and technically feasible methods for covered operators to determine if a covered user is a covered minor required pursuant to this section, and any regulations thereto.

- (1) In promulgating such regulations, the attorney general shall consider the size, financial resources, and technical capabilities of the addictive social media platform, the costs and effectiveness of available age determination techniques for users of the addictive social media platform, the audience of the addictive social media platform, prevalent practices of the industry of the covered operator, and the impact of the age determination techniques on the covered user's safety, utility, and experience.



1 (2) Such regulations shall also identify the appropriate  
2 levels of accuracy that would be commercially  
3 reasonable and technically feasible for covered  
4 operators to achieve in determining whether a covered  
5 user is a covered minor. Such regulations shall set  
6 forth multiple commercially reasonable and technically  
7 feasible methods for a covered operator to determine  
8 if a covered user is a covered minor, including at  
9 least one method that either does not rely solely on  
10 government issued identification or that allows a  
11 covered user to maintain anonymity as to covered  
12 operator of the addictive social media platform.

13 (3) Where a covered operator has used commercially  
14 reasonable and technically feasible age determination  
15 methods in compliance with such regulations and has  
16 not determined that a covered user is a covered minor,  
17 the covered operator shall operate under the  
18 presumption that the covered user is not a covered  
19 minor for the purposes of this chapter, unless it  
20 obtains actual knowledge that the covered user is a  
21 covered minor.



1 (c) Information collected for the purpose of determining a  
2 covered user's age under paragraph (b) shall not be used for any  
3 purpose other than age determination and shall be deleted  
4 immediately after an attempt to determine a covered user's age,  
5 except where necessary for compliance with any applicable  
6 provisions of state or federal law or regulation.

10 (e) Information collected for the purpose of obtaining  
11 such verifiable parental consent shall not be used for any other  
12 purpose other than obtaining verifiable parental consent and  
13 shall be deleted immediately after an attempt to obtain  
14 verifiable parental consent, except where necessary for  
15 compliance with any applicable provision of state or federal law  
16 or regulation.

17 (f) Nothing in this section shall be construed as  
18 requiring any operator to give a parent who grants verifiable  
19 parental consent any additional or special access to or control  
20 over the data or accounts of their child.



7        **§ -C Overnight notifications.** It shall be unlawful for  
8        the covered operator of an addictive social media platform to,  
9        between the hours of 12 AM and 6 AM Hawaii Standard Time, send  
10      notifications concerning an addictive feed to a covered minor  
11      unless the operator has obtained verifiable parental consent to  
12      send such nighttime notifications.

13        § -D **Parental control.** (a) Nothing in this chapter  
14 shall be construed as requiring the operator of an addictive  
15 social media platform to give a parent any additional or special  
16 access to or control over the data or accounts of their child.

17 (b) When verifiable parental consent is required to access  
18 content, the addictive social media platform shall not provide  
19 links, deep-links, emails, SMS notifications, or other rerouting  
20 mechanisms that allow access to the content without the required  
21 verifiable parental consent.

1       **§ -E Nondiscrimination.** A covered operator shall not  
2 withhold, degrade, lower the quality, or increase the price of  
3 any product, service, or feature, other than as necessary for  
4 compliance with the provisions of this chapter or any rules or  
5 regulations promulgated pursuant to this chapter, to a covered  
6 user due to the covered operator not being permitted to provide  
7 an addictive feed to such covered user under this chapter.

8       **§ -F Rulemaking authority.** The attorney general shall  
9 promulgate such rules and regulations as are necessary to  
10 effectuate and enforce the provisions of this chapter.

11       **§ -G Scope.** (a) This chapter shall apply to conduct  
12 that occurs in whole or in part in Hawaii. For purposes of this  
13 chapter, conduct takes place wholly outside of Hawaii if the  
14 addictive social media platform is accessed by a user who is  
15 physically located outside of Hawaii.

16       (b) Nothing in this chapter shall be construed to impose  
17 liability for commercial activities or actions by operators  
18 subject to 15 U.S.C. §6501 that is inconsistent with the  
19 treatment of such activities or actions under 15 U.S.C. §6502.

20       (c) This chapter shall be construed to regulate design  
21 features and should not be interpreted in any way that is



1 inconsistent with Section 230 of the Communications Decency Act  
2 of 1996.

3       **§ -H Remedies.** (a) No earlier than one hundred eighty  
4 days after the effective date of this chapter, whenever it  
5 appears to the attorney general, either upon complaint or  
6 otherwise, that any person, within or outside the State, has  
7 engaged in or is about to engage in any of the acts or practices  
8 stated to be unlawful in this chapter, the attorney general may  
9 bring an action or special proceeding in the name and on behalf  
10 of the people of the state of Hawaii to enjoin any violation of  
11 this chapter, to obtain restitution of any moneys or property  
12 obtained directly or indirectly by any such violation, to obtain  
13 disgorgement of any profits or gains obtained directly or  
14 indirectly by any such violation, including but not limited to  
15 the destruction of unlawfully obtained data, to obtain damages  
16 caused directly or indirectly by any such violation, to obtain  
17 civil penalties of up to five thousand dollars per violation,  
18 and to obtain any such other and further relief as the court may  
19 deem proper, including preliminary relief.

20       (b) The attorney general shall maintain a website to  
21 receive complaints, information, or referrals from members of



1 the public concerning a covered operator's or social media  
2 platform's alleged compliance or non-compliance with the  
3 provisions of this chapter."

4 SECTION 2. The Hawaii Revised Statutes is amended by  
5 adding a new chapter to be appropriately designated and to read  
6 as follows:

7 **"CHAPTER"**

8 **§ -A Definitions.** For the purpose of this chapter:

9 "Covered user" means a user of a website, online service,  
10 online application, mobile application, or connected device, or  
11 portion thereof, in the State who is:

12 (1) Actually known by the operator of such website, online  
13 service, online application, mobile application, or  
14 connected device to be a minor; or  
15 (2) Using a website, online service, online application,  
16 mobile application, or connected device primarily  
17 directed to minors.

18 "Minor" means an individual under the age of eighteen.

19 "Operator" means any person who operates or provides a  
20 website on the internet, online service, online application,  
21 mobile application, or connected device, and who, alone or



1 jointly with others, controls the purposes and means of  
2 processing personal data. A person that acts as both an  
3 operator and processor shall comply with the applicable  
4 obligations of an operator and the obligations of a processor,  
5 depending on its role with respect to each specific processing  
6 of personal data.

7 "Personal data" means any data that identifies or could  
8 reasonably be linked, directly or indirectly, with a specific  
9 natural person or device.

10 "Process" or "processing" means an operation or set of  
11 operations performed on personal data, including but not limited  
12 to the collection, use, access, sharing, sale, monetization,  
13 analysis, retention, creation, generation, derivation,  
14 recording, organization, structuring, storage, disclosure,  
15 transmission, disposal, licensing, destruction, deletion,  
16 modification, or deidentification of personal data.

17 "Primarily directed to minors" means a website, online  
18 service, online application, mobile application, or connected  
19 device, or a portion thereof, that is targeted to minors. A  
20 website, online service, online application, mobile application,  
21 or connected device, or portion thereof, shall not be deemed



1 directed primarily to minors solely because such website, online  
2 service, online application, mobile application, or connected  
3 device, or portion thereof refers or links to any other website,  
4 online service, online application, mobile application, or  
5 connected device directed to minors by using information  
6 location tools, including a directory, index, reference,  
7 pointer, or hypertext link. A website, online service, online  
8 application, mobile application, or connected device, or portion  
9 thereof, shall be deemed directed to minors when it has actual  
10 knowledge that it is collecting personal data of users directly  
11 from users of another website, online service, online  
12 application, mobile application, or connected device primarily  
13 directed to minors.

14 "Sell" means to share personal data for monetary or other  
15 valuable consideration. "Selling" shall not include the sharing  
16 of personal data for monetary or other valuable consideration to  
17 another person as an asset that is part of a merger,  
18 acquisition, bankruptcy, or other transaction in which that  
19 person assumes control of all or part of the operator's assets  
20 or the sharing of personal data with a processor.



1        "Processor" means any person who processes data on behalf  
2    of the operator. A person that acts as both an operator and  
3    processor shall comply with the applicable obligations of an  
4    operator and the obligations of a processor, depending on its  
5    role with respect to each specific processing of personal data.

6        "Third-party operator" means an operator who is not the  
7    operator:

8            (1) With whom the user intentionally and directly  
9                interacts; or  
10           (2) That collects personal data from the directed and  
11                current interactions with the user.

12        **§ -B Privacy protection by default.** (a) Except as  
13    provided for in paragraph (f) of this section and section -F  
14    of this chapter, an operator shall not process, or allow a  
15    processor to process, the personal data of a covered user  
16    collected through the use of a website, online service, online  
17    application, mobile application, or connected device, or allow a  
18    third-party operator to collect the personal data of a covered  
19    user collected through the operator's website, online service,  
20    online application, mobile application, or connected device  
21    unless and to the extent:





1 application, or connected device when it is not in  
2 use;

3 (3) Identifying and repairing technical errors that impair  
4 existing or intended functionality;

5 (4) Protecting against malicious, fraudulent, or illegal  
6 activity;

7 (5) Investigating, establishing, exercising, preparing  
8 for, or defending legal claims;

9 (6) Complying with federal, state, or local laws, rules,  
10 or regulations;

11 (7) Complying with a civil, criminal, or regulatory  
12 inquiry, investigation, subpoena, or summons by  
13 federal, state, local, or other governmental  
14 authorities;

15 (8) Detecting, responding to, or preventing security  
16 incidents or threats; or

17 (9) Protecting the vital interests of a natural person.

18 (c) To process personal data of a covered user where such  
19 processing is not strictly necessary under paragraph (b) of this  
20 section, informed consent must be obtained from the covered user  
21 either through a device communication or signal pursuant to the



1 provisions of section -E of this chapter or through a  
2 request.

3 (1) Requests for such informed consent shall:

4 (A) Be made separately from any other transaction or  
5 part of a transaction;

6 (B) Be made in the absence of any mechanism that has  
7 the purpose or substantial effect of obscuring,  
8 subverting, or impairing a covered user's  
9 decision-making regarding authorization for the  
10 processing;

11 (C) Clearly and conspicuously state that the  
12 processing for which the consent is requested is  
13 not strictly necessary, and that the covered user  
14 may decline without preventing continued use of  
15 the website, online service, online application,  
16 mobile application, or connected device; and

17 (D) Clearly present an option to refuse to provide  
18 consent as the most prominent option.

19 (2) Such informed consent, once given, shall be freely  
20 revocable at any time, and shall be at least as easy  
21 to revoke as it was to provide.





5 (f) Within thirty days of determining or being informed  
6 that a user is a covered user, an operator shall:

7 (1) Dispose of, destroy, or delete and direct all of its  
8 processors to dispose of, destroy, or delete all  
9 personal data of such covered user that it maintains,  
10 unless processing such personal data is permitted  
11 under 15 U.S.C. § 6502 and its implementing  
12 regulations, is strictly necessary for an activity  
13 listed in paragraph (b) of this section, or informed  
14 consent is obtained as set forth in paragraph (c) of  
15 this section; and

16 (2) Notify any third-party operators to whom it knows it  
17 disclosed personal data of that covered user, and any  
18 third-party operators it knows it allowed to process  
19 the personal data that may include the personal data  
20 of that user, that the user is a covered user.



1 (g) Except as provided for in section -F of this  
2 chapter, prior to disclosing personal data to a third-party  
3 operator, or permitting a third-party operator to collect  
4 personal data from the operator's website, online service,  
5 online application, mobile application, connected device, or  
6 portion thereof, the operator shall disclose to the third-party  
7 operator:

8 (1) When their website, online service, online  
9 application, mobile application, connected device, or  
10 portion thereof, is primarily directed to minors; or  
11 (2) When the personal data concerns a covered user.

12       § -C. **Processors.** (a) Except as provided for in section  
13       -F of this chapter, no operator or processor shall disclose the  
14       personal data of a covered user to a third party or allow the  
15       processing of the personal data of a covered user by a third  
16       party, without a written, binding agreement governing such  
17       disclosure or processing. Such agreement shall clearly set  
18       forth instructions for the nature and purpose of the processor's  
19       processing of the personal data, instructions for using or  
20       further disclosing the personal data, and the rights and  
21       obligations of both parties.



13 (d) A processor shall delete or return to the operator all  
14 personal data of covered users at the end of its provision of  
15 services, unless retention of the personal data is required by  
16 federal, state, or local laws, rules, or regulations. The  
17 processor shall provide evidence of such deletion to the  
18 operator within thirty days of the deletion request.

19 (e) An agreement pursuant to paragraph (a) of this section  
20 shall require that the processor:





1           arrange for a qualified and independent assessor to  
2           conduct an assessment of the processor's policies and  
3           technical and organizational measures in support of  
4           the obligations under this chapter using an  
5           appropriate and accepted control standard or framework  
6           and assessment procedure for such assessments. The  
7           processor shall provide a report of such assessment to  
8           the operator upon request; and

9           (5) Notify the operator a reasonable time in advance  
10           before disclosing or transferring the personal data of  
11           covered users to any further processors, which may be  
12           in the form of a regularly updated list of further  
13           processors that may access personal data of covered  
14           users.

15           § -D **Ongoing coverage.** (a) Upon learning that a user  
16           is no longer a covered user, an operator:

17           (1) Shall not process the personal data of the covered  
18           user that would otherwise be subject to the provisions  
19           of this chapter until it receives informed consent  
20           pursuant to paragraph (c) of section -B of this  
21           chapter; and



4 (b) Upon learning that a user is no longer a covered user,  
5 an operator shall provide notice to such user that such user is  
6 no longer covered by the protections and rights provided under  
7 this chapter.

8       § -E **Respecting user-provided age flags.** (a) For the  
9   purposes of this chapter, an operator shall treat a user as a  
10   covered user if the user's device communicates or signals that  
11   the user is or shall be treated as a minor, including through a  
12   browser plug-in or privacy setting, device setting, or other  
13   mechanism that complies with regulations promulgated by the  
14   attorney general.

15 (b) For the purposes of paragraph (c) of section -B of  
16 this chapter, an operator shall adhere to any clear and  
17 unambiguous communications or signals from a covered user's  
18 device, including through a browser plug-in or privacy setting,  
19 device setting, or other mechanism, concerning processing that  
20 the covered user consents to or declines to consent to. An  
21 operator shall not adhere to unclear or ambiguous communications



1 or signals from a covered user's device and shall instead  
2 request informed consent pursuant to the provisions of section  
3 -B of this chapter.

4 **§ -F Protections for third-party operators.** (a)

5 Sections -B and -C of this chapter shall not apply where  
6 a third-party operator is processing the personal data of a  
7 covered user of another website, online service, online  
8 application, mobile application, or connected device, or portion  
9 thereof, provided that the third-party operator received  
10 reasonable written representations that the covered user  
11 provided informed consent for such processing, or:

12 (1) The operator does not have actual knowledge that the  
13 covered user is a minor; and  
14 (2) The operator does not have actual knowledge that the  
15 other website, online service, online application,  
16 mobile application, or connected device, or portion  
17 thereof, is primarily directed to minors.

18 **§ -G Rulemaking authority.** The attorney general may  
19 promulgate such rules and regulations as are necessary to  
20 effectuate and enforce the provisions of this chapter.



1        **S -H Scope.** (a) This chapter shall apply to conduct  
2    that occurs in whole or in part in the state of Hawaii. For  
3    purposes of this chapter, commercial conduct takes place wholly  
4    outside of the state of Hawaii if the business collected such  
5    information while the covered user was outside of the state of  
6    Hawaii, no part of the use of the covered user's personal data  
7    occurred in the state of Hawaii, and no personal data collected  
8    while the covered user was in the state of Hawaii is used.

9        (b) Nothing in this chapter shall be construed to prohibit  
10   an operator from storing a covered user's personal data that was  
11   collected pursuant to section     -B of this chapter when such  
12   covered user is in the state.

13        (c) Nothing in this chapter shall be construed to impose  
14   liability for commercial activities or actions by operators  
15   subject to 15 U.S.C. § 6501 that is inconsistent with the  
16   treatment of such activities or actions under 15 U.S.C. § 6502.

17        **S -I Remedies.** Whenever it appears to the attorney  
18   general, either upon complaint or otherwise, that any person,  
19   within or outside the state, has engaged in or is about to  
20   engage in any of the acts or practices stated to be unlawful in  
21   this chapter, the attorney general may bring an action or



1 special proceeding in the name and on behalf of the people of  
2 the state of Hawaii to enjoin any violation of this chapter, to  
3 obtain restitution of any moneys or property obtained directly  
4 or indirectly by any such violation, to obtain disgorgement of  
5 any profits or gains obtained directly or indirectly by any such  
6 violation, including but not limited to the destruction of  
7 unlawfully obtained data, to obtain damages caused directly or  
8 indirectly by any such violation, to obtain civil penalties of  
9 up to five thousand dollars per violation, and to obtain any  
10 such other and further relief as the court may deem proper,  
11 including preliminary relief.

12 SECTION 3. If any provision of this Act, or the  
13 application thereof to any person or circumstance, is held  
14 invalid, the invalidity does not affect other provisions or  
15 applications of the Act that can be given effect without the  
16 invalid provision or application, and to this end the provisions  
17 of this Act are severable.

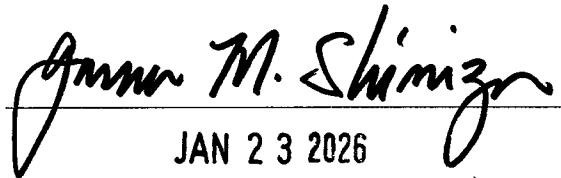
18 SECTION 4. This Act does not affect rights and duties that  
19 matured, penalties that were incurred, and proceedings that were  
20 begun before its effective date.



1 SECTION 5. In codifying the new chapters added by section  
2 1 and 2 of this Act, the revisor of statutes shall substitute  
3 appropriate section numbers for the letters used in designating  
4 the new section in this Act.

5 SECTION 6. This Act shall take effect on July 1, 2026.

6 INTRODUCED BY:

  
JAN 23 2026



# H.B. NO. 2040

**Report Title:**

Minors; Social Media; Addictive Content; Privacy; Data; Protection

**Description:**

Protects minors from addictive content by imposing special requirements for operators regarding consent, notifications, and age verification. Protects minors from having their online personal data processed without parental consent.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

