

HB 1735 -- PASSWORD PRIVACY PROTECTION (Davis)

COMMITTEE OF ORIGIN: Standing Committee on Emerging Issues

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Emerging Issues by a vote of 10 to 0. Voted "Do Pass" by the Select Committee on General Laws by a vote of 10 to 0.

This bill adds protection for students in elementary and secondary public and private schools regarding their passwords and social media accounts. In its main provisions, the bill prohibits an educational institution from:

- (1) Requiring, requesting, or coercing a student or prospective student to disclose any information that would allow access to his or her personal social media account or access a personal social media account in the presence of a school employee or school volunteer;
- (2) Compelling a student or prospective student to add a school employee or volunteer to his or her list of contacts associated with his or her personal social media account; and
- (3) Taking any action or threatening to take any action to discharge, discipline or otherwise penalize a student due to his or her refusal to provide information, to add a school employee or school volunteer to his or her list of contacts associated with his or her personal social media account, or failing or refusing to admit any prospect student as a result of his or her refusal to disclose the information or add one of the persons to his or her list of contacts.

The bill allows an education institution to access information about a student or prospective student that is publicly available, requesting or requiring a student or prospective student to share specific content that has been reported to the school as part of a specified investigation. The educational institution may prohibit students from using a personal social media account for school purposes or accessing or operating a personal social media account during school hours or while on school property.

If an educational institution violates these provisions, it must be an unlawful employment practice, and the student or prospective student may bring a cause of action for general or specific damages.

The Password Privacy Protection Act is established. In its main provisions, the bill:

(1) Prohibits an employer from requesting or requiring an employee or applicant to disclose any user name, password, or other means for accessing a personal on-line account or service;

(2) Prohibits an employer or employment agency from requiring an employee or applicant to add the employer or employment agency to the employee's or applicant's list of contacts associated with a personal email account, including Facebook accounts and similar services;

(3) Allows an employer to request or require an employee to disclose any user name, password, or other authentication means for accessing an electronic communications device paid for in whole or in part by the employer or any account or services provided by the employer used by the employee for business purposes or as a result of the employee's employment relationship with the employer;

(4) Prohibits an employer from discharging, disciplining, or penalizing or threatening to discharge, discipline, or penalize an employee for his or her refusal to disclose the information or from failing or refusing to hire an applicant for the refusal;

(5) Prohibits an employee from transferring an employer's proprietary or confidential information or financial data to an employee's personal on-line account or service without the employer's authorization;

(6) Specifies that the act must not be construed to prevent an employer from engaging in specified investigatory activities; from disciplining or discharging an employee for transferring an employer's proprietary or confidential information or financial data to an employee's personal on-line account or service without authorization; from restricting or prohibiting employee access to certain websites using employer provided equipment or resources; or from monitoring, reviewing, accessing, or blocking data stored on an electronic communications device paid for in whole or in part by the employer;

(7) Specifies that an employer must not be prohibited or restricted from viewing, accessing, or utilizing information about an employee or applicant that can be obtained without using a user name, password, or other means or that is available to the public; and

(8) Specifies that the act must not be construed to prevent an employer from complying with state or federal laws or regulations or rules of self-regulatory organizations as that term is defined in federal regulation 15 U.S.C. Section 78c(a)(26) or to prohibit an employer from requesting an employee to provide an email for

business purposes. However, an employer cannot disclose the email address to any third party.

This bill is similar to HCS HB 120 (2015).