

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 302, Page 4, Section 135.963, Line 54,
2 by inserting after all of said section and line the following:

3
4 "173.1600. 1. As used in this section, the following words mean:

5 (1) "Educational institution" or "school", a private or public institution that offers
6 participants, students, or trainees an organized course of study or training that is academic,
7 technical, trade-oriented, or preparatory for gainful employment in a recognized occupation;

8 (2) "Personal social media account", an account with an electronic medium or service where
9 users may create, share, and view user-generated content including, but not limited to, videos or still
10 photographs, blogs, video blogs, podcasts, messages, emails, or internet website profiles or
11 locations. The term "personal social media account" does not include:

12 (a) An account opened at an employer's behest, or provided by an employer, and intended to
13 be used solely on behalf of the employer; or

14 (b) An account opened at a school's behest, or provided by a school, and intended to be used
15 solely on behalf of the school;

16 (3) "Prospective student", an applicant for admission to an educational institution;

17 (4) "Student", any student, participant, or trainee, whether full-time or part-time, in an
18 organized course of study at an educational institution.

19 2. An educational institution shall not:

20 (1) Require, request, or coerce a student or prospective student to disclose the username and
21 password, password, or any other means of authentication, or provide access through the username
22 or password, to a personal social media account;

23 (2) Except as provided under subsection 4 of this section, require, request, or coerce a
24 student or prospective student to access a personal social media account in the presence of a school
25 employee or school volunteer including, but not limited to, a coach, teacher, or school administrator,
26 in a manner that enables the school employee or school volunteer to observe the contents of such
27 account; or

28 (3) Compel a student or prospective student to add anyone, including a coach, teacher,
29 school administrator, or other school employee or school volunteer, to his or her list of contacts
30 associated with a personal social media account or require, request, or otherwise coerce a student or
31 prospective student to change the settings that affect a third party's ability to view the contents of a
32 personal social media account.

33 3. An educational institution shall not:

34 (1) Take any action or threaten to take any action to discharge, discipline, prohibit from
35 participating in curricular or extracurricular activities, or otherwise penalize a student for a student's
36 refusal to disclose any information specified in subdivision (1) of subsection 2 of this section, for

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1 refusal to take any action specified in subdivision (2) of subsection 2 of this section, or for refusal to
 2 add a coach, teacher, school administrator, or other school employee or school volunteer to his or
 3 her list of contacts associated with a personal social media account or to change the settings that
 4 affect a third party's ability to view the contents of a personal social media account, as specified in
 5 subdivision (3) of subsection 2 of this section; or

6 (2) Fail or refuse to admit any prospective student as a result of the prospective student's
 7 refusal to disclose any information specified in subdivision (1) of subsection 2 of this section,
 8 refusal to take any action specified in subdivision (2) of subsection 2 of this section, or refusal to
 9 add a coach, teacher, school administrator, or other school employee or school volunteer to his or
 10 her list of contacts associated with a personal social media account or to change the settings that
 11 affect a third party's ability to view the contents of a personal social media account, as specified in
 12 subdivision (3) of subsection 2 of this section.

13 4. Nothing in this section prevents an educational institution from:

14 (1) Accessing information about a student or prospective student that is publicly available;

15 (2) Complying with state and federal laws, rules, and regulations and the rules of self-
 16 regulatory organizations, where applicable;

17 (3) Requesting or requiring a student or prospective student to share specific content that
 18 has been reported to the school, without requesting or requiring a student or prospective student to
 19 provide a username and password, password, or other means of authentication that provides access
 20 to a personal social media account, as part of:

21 (a) An investigation for the purpose of ensuring compliance with applicable laws or
 22 regulatory requirements; or

23 (b) An investigation of actual disruption to school functions based on receipt of specific
 24 information about the unlawful harassment or bullying of a student by the student or prospective
 25 student from whom the content is requested or required;

26 (4) Prohibiting a student or prospective student from using a personal social media account
 27 for school purposes; or

28 (5) Prohibiting a student or prospective student from accessing or operating a personal
 29 social media account during school hours or while on school property.

30 5. If a school inadvertently receives the username and password, password, or other means
 31 of authentication that provides access to a personal social media account of a student or prospective
 32 student through the use of an otherwise lawful virus scan or firewall that monitors the school's
 33 network or school-provided devices, the school is not liable for having the information but shall not
 34 use the information to access the personal social media account of the student or prospective student
 35 or share the information with anyone. The school shall delete the information immediately, if
 36 reasonably practicable.

37 6. It shall be an unlawful employment practice for an educational institution to violate the
 38 provisions of this section. A student or prospective student may bring a cause of action for general
 39 or specific damages based on any violation of this section.

40 285.045. 1. This section shall be known and may be cited as "The Password Privacy
 41 Protection Act".

42 2. As used in this section, the following terms shall mean:

43 (1) "Applicant", any person applying for employment;

44 (2) "Electronic communications device", any device that uses electronic signals to create,
 45 transmit, and receive information. The term "electronic communications device" shall include, but
 46 not be limited to, computers, telephones, personal digital assistants, and other similar devices;

47 (3) "Employee", any person performing work or service of any kind or character for hire
 48 within the state of Missouri, including independent contractors;

1 (4) "Employer", any person or entity employing any person for hire within the state of
 2 Missouri, including a public employer;

3 (5) "Employment", the act of employing or state of being employed, engaged, or hired to
 4 perform work or services of any kind or character within the state of Missouri;

5 (6) "Personal online account", an online account that is used by an employee or applicant
 6 exclusively for personal communications unrelated to any business purposes of the employer. Such
 7 account shall not include any account created, maintained, used, or accessed by an employee or
 8 applicant for business-related communications or for a business purpose of the employer;

9 (7) "Personal online service", an online service that is used by an employee or applicant
 10 exclusively for personal communication or use unrelated to any business purposes of the employer.
 11 Such service shall not include any service maintained, used, or accessed by an employee or
 12 applicant for business-related communications or uses or for a business purpose of the employer;

13 (8) "Political subdivision", any agency of the state, county, city, town, township, village,
 14 special district, subdistrict, or any unit of the state authorized to levy taxes;

15 (9) "Public employer", every department, agency, or instrumentality of the state or political
 16 subdivision of the state;

17 (10) "Work", any job, task, labor, services, or any other activity for which compensation is
 18 provided, expected, or due.

19 3. Subject to the exceptions provided in subsection 4 of this section, an employer shall not
 20 request or require an employee or applicant to disclose any username, password, or other
 21 authentication means for accessing any personal online account or personal online service or compel
 22 an employee or applicant for employment to add the employer or an employment agency to the
 23 employee's or applicant's list of contacts associated with a personal online account.

24 4. An employer may request or require an employee to disclose any username, password, or
 25 other authentication means for accessing:

26 (1) Any electronic communications device supplied by or paid for, in whole or in part, by
 27 the employer;

28 (2) Any accounts or services provided by the employer;

29 (3) Any accounts or services the employee uses for business purposes; or

30 (4) Any accounts or services used as a result of the employee's employment relationship
 31 with the employer.

32 5. An employer shall not:

33 (1) Discharge, discipline, or otherwise penalize or threaten to discharge, discipline, or
 34 otherwise penalize an employee solely for an employee's refusal to disclose any information
 35 specified in subsection 3 of this section;

36 (2) Fail or refuse to hire any applicant as a result of the applicant's refusal to disclose any
 37 information specified in subsection 3 of this section; or

38 (3) Be held liable for failure to request or require that an applicant or employee disclose any
 39 information specified in subsection 3 of this section.

40 6. An employee shall not transfer an employer's proprietary or confidential information or
 41 financial data to an employee's personal online account or personal online service without the
 42 employer's authorization.

43 7. This section shall not be construed to prevent an employer from engaging in any of the
 44 following activities:

45 (1) Conducting an investigation for the purposes of ensuring compliance with applicable
 46 laws or regulations against work-related employee misconduct based on the receipt of specific
 47 information about activity on a personal online account or personal online service by an employee
 48 or other source;

1 (2) Conducting an investigation of an employee's actions based on the receipt of specific
2 information about the unauthorized transfer of an employer's proprietary information, confidential
3 information, or financial data to a personal online account or personal online service by an
4 employee or other source;

5 (3) Conducting an investigation as specified in subdivision (1) or (2) of this subsection that
6 requires the employee's cooperation to share the content that has been reported in order to make a
7 factual determination;

8 (4) Disciplining or discharging an employee for transferring the employer's proprietary or
9 confidential information or financial data to an employee's personal online account or personal
10 online service without the employer's authorization;

11 (5) Restricting or prohibiting an employee's access to certain websites while using an
12 electronic communications device that is paid for, in whole or in part, by the employer or while
13 using an employer's network or resources, in compliance with state and federal law; or

14 (6) Monitoring, reviewing, accessing, or blocking electronic data stored on an electronic
15 communications device that is paid for, in whole or in part, by the employer, or such data that is
16 traveling through or stored on an employer's network, in compliance with state and federal law.

17 8. This section shall not prohibit or restrict any employer from viewing, accessing, or
18 utilizing information about any employee or applicant that can be obtained without the information
19 specified in subsection 3 of this section or that is available to the public.

20 9. This section shall not be construed to prevent an employer from complying with state or
21 federal laws or regulations or the rules of self-regulatory organizations, as that term is defined in 15
22 U.S.C. Section 78c(a)(26).

23 10. This section shall not be construed to prohibit an employer from requesting an employee
24 to provide an email address in order to conduct business-related communications with the employee.
25 However, such address shall not be disclosed to any third party."; and

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27 Further amend said bill by amending the title, enacting clause, and intersectional references
28 accordingly.