

HB 912 -- SOCIAL MEDIA PRIVACY PROTECTIONS

SPONSOR: Cornejo

This bill prohibits an educational institution from:

- (1) Requiring, requesting, or coercing a student or prospective student to disclose the user name and password, password, or any other means of authentication or provide access through the user name or password to a personal social media account;
- (2) Requiring, requesting, or coercing a student or prospective student to access a personal social media account in the presence of a school employee or school volunteer, including a coach, teacher, or school administrator, in a manner that enables the school employee or school volunteer to observe the contents of the account; or
- (3) Compelling a student or prospective student to add anyone, including a coach, teacher, school administrator, or other school employee or school volunteer, to his or her list of contacts associated with a personal social media account or requiring, requesting, or otherwise coercing a student or prospective student to change the settings that affect a third-party's ability to view the contents of a personal social media account.

An educational institution must not take any action or threaten to take any action to discharge, discipline, prohibit from participating in curricular or extracurricular activities, or otherwise penalize a student for a student's refusal to disclose any of the specified information; for refusal to take any specified action; or for refusal to add a coach, teacher, school administrator, or other school employee or school volunteer to his or her list of contacts associated with a personal social media account or to change the settings that affect a third-party's ability to view the contents of a personal social media account. An educational institution must not fail or refuse to admit any prospective student as a result of the prospective student's refusal of any of these actions.

An education institution is not prohibited from accessing information about a student or prospective student that is publicly available; complying with state and federal laws, rules, and regulations and the rules of self-regulatory organizations, where applicable; requesting or requiring a student or prospective student to share specific content that has been reported to the school in specified situations; or prohibiting a student or prospective student from using a personal social media account for school purposes or operating a personal social media account during

school hours or while on school property.

If a school inadvertently receives information that provides access to the personal social media account of a student or prospective student through the use of an otherwise lawful virus scan or firewall that monitors the school's network or school-provided devices, the school is not liable for having the information but must not use the information to access the personal social media account of the student or prospective student or share the information with anyone and must delete the information immediately, if reasonably practicable.

It must be an unlawful employment practice for an educational institution to violate these provisions. A student or prospective student may bring a cause of action for general or specific damages based on any violation of these provisions.

An employer is prohibited from:

(1) Requiring, requesting, or coercing an employee or applicant to disclose the user name and password, password, or any other means of authentication or to provide access through the user name or password to a personal social media account;

(2) Requiring, requesting, or coercing an employee or applicant to access a personal social media account in the presence of the employer in a manner that enables the employer to observe the contents of the account; or

(3) Compelling an employee or applicant to add anyone, including the employer, to his or her list of contacts associated with a personal social media account or require, request, or otherwise coerce an employee or applicant to change the settings that affect a third-party's ability to view the contents of a personal social media account.

An employer is prohibited from taking any action or threatening to take any action to discharge, discipline, or otherwise penalize an employee for an employee's refusal to disclose any specified information, for refusal to take any specified action, or for refusal to add the employer to his or her list of contacts associated with a personal social media account or to change the settings that affect a third-party's ability to view the contents of a personal social media account. An employer is prohibited from failing or refusing to hire any applicant as a result of any of these actions.

An employer is not prohibited from accessing information about an applicant or employee that is publicly available; complying with

state and federal laws, rules, and regulations and the rules of self-regulatory organizations, where applicable; requesting or requiring an employee or applicant to share specific content that has been reported to the employer for certain specified purposes; or prohibiting an employee or applicant from using a personal social media account for business purposes or from accessing or operating a personal social media account during business hours or while on business property.

If an employer inadvertently receives the user name and password, password, or other means of authentication that provides access to a personal social media account of an employee or applicant through the use of an otherwise lawful virus scan or firewall that monitors the employer's network or employer-provided devices, the employer is not liable for having the information but must not use the information to access the personal social media account of the employee or applicant or share the information with anyone and must delete the information immediately, if reasonably practicable.

These provisions must not be construed to prevent an employer not prohibited from complying with the requirements of state or federal statutes, rules or regulations, case law, or rules of self-regulatory organizations. It must be an unlawful employment practice for an employer to violate these provisions. An aggrieved employee or applicant may bring an action as established under Sections 213.075 to 213.111, RSMo.