

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1358**  
**99TH GENERAL ASSEMBLY**

4168H.03C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To amend chapter 407, RSMo, by adding thereto eight new sections relating to password protection.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 407, RSMo, is amended by adding thereto eight new sections, to be  
2 known as sections 407.1700, 407.1710, 407.1720, 407.1730, 407.1740, 407.1750, 407.1760, and  
3 407.1770, to read as follows:

**407.1700. As used in sections 407.1700 to 407.1770, the following terms shall mean:**

2 **(1) "Applicant", an applicant for employment;**

3 **(2) "Educational institution", a public or private institution of higher education or**  
4 **a public or private school giving instruction in a grade or grades not higher than the**  
5 **twelfth grade that offers participants, students, or trainees an organized course of study**  
6 **or training that is academic, technical, trade-oriented, or preparatory for gainful**  
7 **employment in a recognized occupation;**

8 **(3) "Employee", an individual who provides services or labor to an employer in**  
9 **return for wages or other remuneration or compensation;**

10 **(4) "Employer", a person who is acting directly as an employer, or acting under**  
11 **the authority or on behalf of an employer, in relation to an employee;**

12 **(5) "Landlord", the owner or lawful possessor of real property who, in an exchange**  
13 **for rent, leases it to another person or persons for residential purposes;**

14 **(6) "Lease", a legally binding agreement between a landlord and a residential**  
15 **tenant or tenants for the rental of real property;**

16 **(7) "Personal online account", any online account maintained by a person and**  
17 **protected by a login requirement including, but not limited to, a social media or email**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **account. The term "personal online account" does not include an account, or a discrete**  
19 **portion of an account, that was:**

20 **(a) Opened at an employer's behest or provided by an employer and intended to**  
21 **be used solely or primarily on behalf of or under the direction of the employer; or**

22 **(b) Opened at an educational institution's behest or provided by an educational**  
23 **institution and intended to be used solely or primarily on behalf of or under the direction**  
24 **of the educational institution;**

25 **(8) "Prospective student", those who seek admission to an educational institution**  
26 **and who are eighteen years of age or older;**

27 **(9) "Prospective tenant", those who inquire about or apply to rent real property**  
28 **from a landlord for residential purposes;**

29 **(10) "Specifically identified content", data or information stored in a personal**  
30 **online account that is identified with sufficient particularity to distinguish the discrete,**  
31 **individual piece of content being sought from any other data or information stored in the**  
32 **account with which it may share similar characteristics;**

33 **(11) "Student", any full-time or part-time student, participant, or trainee who is**  
34 **eighteen years of age or older and who is enrolled in a class or any other organized course**  
35 **of study at an educational institution;**

36 **(12) "Tenant", those who lease real property from a landlord, in exchange for rent,**  
37 **for residential purposes.**

**407.1710. Employers shall not:**

2 **(1) Require, request, or coerce an employee or applicant to:**

3 **(a) Disclose the username and password, password, or any other means of**  
4 **authentication, or provide access through the username or password, to a personal online**  
5 **account;**

6 **(b) Disclose the nonpublic contents of a personal online account;**

7 **(c) Provide password or authentication information to a personal technological**  
8 **device for purposes of gaining access to a personal online account or turn over an unlocked**  
9 **personal technological device for purposes of gaining access to a personal online account;**

10 **(d) Access a personal online account in the presence of the employer in a manner**  
11 **that enables the employer to observe the contents of such account; or**

12 **(e) Change the account settings of a personal online account so as to increase**  
13 **third-party access to its content;**

14 **(2) Require or coerce an employee or applicant to add anyone, including the**  
15 **employer, to his or her list of contacts associated with a personal online account;**

16           **(3) Take any action or threaten to take any action to discharge, discipline, or**  
17 **otherwise penalize an employee in response to an employee's refusal to disclose any**  
18 **information specified in paragraphs (a) to (c) of subdivision (1) of this section or refusal**  
19 **to take any action specified in paragraphs (d) and (e) of subdivision (1) of this section or**  
20 **subdivision (2) of this section; or**

21           **(4) Fail or refuse to hire any applicant as a result of an applicant's refusal to**  
22 **disclose any information specified in paragraphs (a) to (c) of subdivision (1) of this section**  
23 **or refusal to take any action specified in paragraphs (d) and (e) of subdivision (1) of this**  
24 **section or subdivision (2) of this section.**

**407.1720. Educational institutions shall not:**

2           **(1) Require, request, or coerce a student or prospective student to:**

3           **(a) Disclose the username and password, password, or any other means of**  
4 **authentication, or provide access through the username or password, to a personal online**  
5 **account;**

6           **(b) Disclose the nonpublic contents of a personal online account;**

7           **(c) Provide password or authentication information to a personal technological**  
8 **device for purposes of gaining access to a personal online account or turn over an unlocked**  
9 **personal technological device for purposes of gaining access to a personal online account;**

10           **(d) Access a personal online account in the presence of an employee or volunteer**  
11 **of an educational institution including, but not limited to, a coach, teacher, or school**  
12 **administrator, in a manner that enables the employee or volunteer of the educational**  
13 **institution to observe the contents of such account; or**

14           **(e) Change the account settings of a personal online account so as to increase**  
15 **third-party access to its content;**

16           **(2) Require or coerce a student or prospective student to add anyone, including a**  
17 **coach, teacher, school administrator, or other employee or volunteer of an educational**  
18 **institution, to his or her list of contacts associated with a personal online account;**

19           **(3) Take any action or threaten to take any action to discharge, discipline, prohibit**  
20 **from participating in curricular or extracurricular activities, or otherwise penalize a**  
21 **student in response to a student's refusal to disclose any information specified in**  
22 **paragraphs (a) to (c) of subdivision (1) of this section or refusal to take any action specified**  
23 **in paragraphs (d) and (e) of subdivision (1) of this section or subdivision (2) of this section;**  
24 **or**

25           **(4) Fail or refuse to admit any prospective student as a result of the prospective**  
26 **student's refusal to disclose any information specified in paragraphs (a) to (c) of**

27 subdivision (1) of this section or refusal to take any action specified in paragraphs (d) and  
28 (e) of subdivision (1) of this section or subdivision (2) of this section.

**407.1730. Landlords shall not:**

2 (1) Require, request, or coerce a tenant or prospective tenant to:

3 (a) Disclose the username and password, password, or any other means of  
4 authentication, or provide access through the username or password, to a personal online  
5 account;

6 (b) Disclose the nonpublic contents of a personal online account;

7 (c) Provide password or authentication information to a personal technological  
8 device for purposes of gaining access to a personal online account or turn over an unlocked  
9 personal technological device for purposes of gaining access to a personal online account;

10 (d) Access a personal online account in the presence of the landlord in a manner  
11 that enables the landlord to observe the contents of such account; or

12 (e) Change the account settings of a personal online account so as to increase  
13 third-party access to its content;

14 (2) Require or coerce a tenant or prospective tenant to add anyone, including the  
15 landlord, to his or her list of contacts associated with a personal online account;

16 (3) Take any action or threaten to take any action to evict or otherwise penalize a  
17 tenant in response to the tenant's refusal to disclose any information specified in  
18 paragraphs (a) to (c) of subdivision (1) of this section or refusal to take any action specified  
19 in paragraphs (d) and (e) of subdivision (1) of this section or subdivision (2) of this section;

20 (4) Fail or refuse to rent real property to or otherwise penalize any prospective  
21 tenant as a result of a prospective tenant's refusal to disclose any information specified in  
22 paragraphs (a) to (c) of subdivision (1) of this section or refusal to take any action specified  
23 in paragraphs (d) and (e) of subdivision (1) of this section or subdivision (2) of this section;  
24 or

25 (5) Include any provisions in a new or renewal lease, executed on or after the date  
26 the provisions of sections 407.1700 to 407.1770 take effect, that conflict with this section.  
27 Any such conflicting lease provisions shall be deemed void and legally unenforceable.

**407.1740. 1. Nothing in sections 407.1700 to 407.1770 shall prevent an employer  
2 from:**

3 (1) Accessing information about an applicant or employee that is publicly available;

4 (2) Complying with state and federal laws, rules, and regulations and the rules of  
5 self-regulatory organizations, as defined in 15 U.S.C. Section 78c(a)(26), or another statute  
6 governing self-regulatory organizations;

7           **(3) Without requesting or requiring an employee or applicant to provide a**  
8 **username and password, password, or other means of authentication that provides access**  
9 **to a personal online account, requesting or requiring an employee or applicant to share**  
10 **specifically identified content that has been reported to the employer for the purpose of:**

11           **(a) Enabling an employer to comply with its own legal and regulatory obligations;**

12           **(b) Investigating an allegation, based on the receipt of information regarding**  
13 **specifically identified content, of the unauthorized transfer of an employer's proprietary**  
14 **or confidential information or financial data to an employee's or applicant's personal**  
15 **online account; or**

16           **(c) Investigating an allegation, based on the receipt of information regarding**  
17 **specifically identified content, that has been reported to the employer for the purpose of**  
18 **complying with its own legal obligations, subject to all legal and constitutional protections**  
19 **that are applicable to the employee or applicant;**

20           **(4) Prohibiting an employee or applicant from using a personal online account for**  
21 **business purposes; or**

22           **(5) Prohibiting an employee or applicant from accessing or operating a personal**  
23 **online account during business hours or while on business property.**

24           **2. Nothing in sections 407.1700 to 407.1770 shall prevent an educational institution**  
25 **from:**

26           **(1) Accessing information about a student or prospective student that is publicly**  
27 **available;**

28           **(2) Complying with state and federal laws, rules, and regulations, and the rules of**  
29 **self-regulatory organizations, as defined in 15 U.S.C. Section 78c(a)(26), or another statute**  
30 **governing self-regulatory organizations;**

31           **(3) Without requesting or requiring a student or prospective student to provide a**  
32 **username and password, password, or other means of authentication that provides access**  
33 **to a personal online account, requesting or requiring a student or prospective student to**  
34 **share specifically identified content that has been reported to the educational institution**  
35 **for the purpose of complying with its own legal obligations, subject to all legal and**  
36 **constitutional protections that are applicable to the student or prospective student;**

37           **(4) Prohibiting a student or prospective student from using a personal online**  
38 **account for educational institution purposes; or**

39           **(5) Prohibiting a student or prospective student from accessing or operating a**  
40 **personal online account during educational institution hours or while on educational**  
41 **institution property.**

42           **3. Nothing in sections 407.1700 to 407.1770 shall prevent a landlord from:**

43           **(1) Accessing information about a tenant or prospective tenant that is publicly**  
44 **available;**

45           **(2) Complying with state and federal laws, rules, and regulations, and the rules of**  
46 **self-regulatory organizations, as defined in 15 U.S.C. Section 78c(a)(26), or another statute**  
47 **governing self-regulatory organizations; or**

48           **(3) Without requesting or requiring a tenant or prospective tenant to provide a**  
49 **username and password, password, or other means of authentication that provides access**  
50 **to a personal online account, requesting or requiring a tenant or prospective tenant to**  
51 **share specifically identified content that has been reported to the landlord for the purpose**  
52 **of:**

53           **(a) Enabling a landlord to comply with its own legal and regulatory obligations; or**

54           **(b) Investigating an allegation, based on the receipt of information regarding**  
55 **specifically identified content, of a lease violation by the tenant where such a violation**  
56 **presents an imminent threat of harm to the health or safety of another tenant or occupant**  
57 **of the real property or of damage to the real property.**

**407.1750. If an employer, educational institution, or landlord inadvertently receives**  
2 **the username and password, password, or other means of authentication that provides**  
3 **access to a personal online account of an employee, applicant, student, prospective student,**  
4 **tenant, or prospective tenant through the use of an otherwise lawful technology that, for**  
5 **network security or data confidentiality purposes, monitors the network of the employer,**  
6 **educational institution, or landlord, or the devices provided by an employer, educational**  
7 **institution, or landlord, the employer, educational institution, or landlord:**

8           **(1) Is not liable for having the information;**

9           **(2) Shall not use the information to access the personal online account of the**  
10 **employee, applicant, student, prospective student, tenant, or prospective tenant;**

11           **(3) Shall not share the information with any other person or entity; and**

12           **(4) Shall delete the information as soon as is reasonably practicable, unless the**  
13 **information is being retained by the employer, educational institution, or landlord in**  
14 **connection with the pursuit of a specific criminal complaint or civil action, or the**  
15 **investigation thereof.**

**407.1760. 1. Any employer, educational institution, or landlord, including its**  
2 **employee or agents, who violates the provisions of sections 407.1700 to 407.1770 shall be**  
3 **subject to legal action for damages, to be brought by any person claiming a violation of the**  
4 **provisions of sections 407.1700 to 407.1770 has injured his or her person or reputation. A**  
5 **person so injured shall be entitled to actual damages, including mental pain and suffering**  
6 **endured on account of violation of the provisions of sections 407.1700 to 407.1770,**

7 reasonable attorney's fees and other costs of litigation, and equitable relief, as may be  
8 appropriate.

9       **2. Any employee or agent of an educational institution who violates the provisions**  
10 **of sections 407.1700 to 407.1770 may be subject to disciplinary proceedings and**  
11 **punishment. For educational institution employees who are represented under the terms**  
12 **of a collective bargaining agreement, the provisions of sections 407.1700 to 407.1770 prevail**  
13 **except where they conflict with the collective bargaining agreement, any memorandum of**  
14 **agreement or understanding signed pursuant to the collective bargaining agreement, or**  
15 **any recognized and established practice relative to the members of the bargaining unit.**

**407.1770. Except as proof of a violation of the provisions of sections 407.1700 to**  
2 **407.1770, no data obtained, accessed, used, copied, disclosed, or retained in violation of the**  
3 **provisions of sections 407.1700 to 407.1770, nor any evidence derived therefrom, shall be**  
4 **admissible in any criminal, civil, administrative, or other proceeding.**

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