

2014 -- H 7124 SUBSTITUTE A

LC003321/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO EDUCATION AND LABOR - SOCIAL MEDIA PRIVACY

Introduced By: Representatives Kennedy, Ajello, Naughton, E Coderre, and San Bento

Date Introduced: January 16, 2014

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 16 of the General Laws entitled "EDUCATION" is hereby amended  
2 by adding thereto the following chapter:

3 CHAPTER 103

4 STUDENT SOCIAL MEDIA PRIVACY

5 **16-103-1. Definitions. --** For the purposes of this chapter:

6 (1) "Social media account" means an electronic service or account, or electronic content,  
7 including, but not limited to, videos, still photographs, blogs, video blogs, podcasts, instant and  
8 text messages, email, online service or accounts, or Internet website profiles or locations. For the  
9 purposes of this chapter, social media account does not include an account opened at a school's  
10 behest, or provided by the school or intended to be used primarily on behalf of the school.

11 (2) "Applicant" means an applicant for admission to an educational institution.

12 (3) "Educational institution" or "school" means a private or public institution that offers  
13 participants, students or trainees an organized course of study or training that is academic,  
14 technical, trade-oriented or preparatory for gainful employment in a recognized occupation and  
15 shall include any person acting as an agent of the institution.

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

18 **16-103-2. Social media password requests prohibited. --** No educational institution  
19 shall:

1           (1) Require, coerce or request a student or prospective student to disclose the password or  
2 any other means for accessing a personal social media account;

3           (2) Require, coerce or request a student or prospective student to access a personal social  
4 media account in the presence of the educational institution's employee or representative; or

5           (3) Require or coerce a student or prospective student to divulge any personal social  
6 media account information.

7           **16-103-3. Social media access requests prohibited.** -- No educational institution shall  
8 compel a student or applicant, as a condition of acceptance or participation in curricular or  
9 extracurricular activities, to add anyone, including a coach, teacher, school administrator, or other  
10 school employee or school volunteer, to their list of contacts associated with a personal social  
11 media account or require, request, or cause a student or applicant to alter settings that affect a  
12 third party's ability to view the contents of a personal social media account.

13           **16-103-4. Disciplinary action prohibited.** -- No educational institution shall:

14           (1) Discharge, discipline, or otherwise penalize or threaten to discharge, discipline, or  
15 otherwise penalize any student for a student's refusal to disclose or provide access to any  
16 information specified in § 16-103-2 or for refusal to add a coach, teacher, administrator, or other  
17 school employee or school volunteer to their list of contacts associated with a personal social  
18 media account or to alter settings associated with a personal social media account, as specified in  
19 § 16-103-3; or

20           (2) Fail or refuse to admit any applicant as a result of the applicant's refusal to disclose or  
21 provide access to any information specified in § 16-103-2 or for refusal to add a coach, teacher,  
22 school administrator, or other school employee or school volunteer to their list of contacts  
23 associated with a personal social media account or to alter settings associated with a personal  
24 social media account, as specified in § 16-103-3.

25           **16-103-5. Exceptions.** -- This chapter shall not apply to information about a student that  
26 is publicly available.

27           **16-103-6. Penalties for violations.** -- In any civil action alleging a violation of this  
28 chapter, the court may:

29           (1) Award to a prevailing applicant or student declaratory relief, damages, and reasonable  
30 attorneys' fees and costs; and

31           (2) Award injunctive relief against any school, or agent of any educational institution  
32 who commits or proposes to commit a violation of this chapter.

33           SECTION 2. Title 28 of the General Laws entitled "LABOR AND LABOR  
34 RELATIONS" is hereby amended by adding thereto the following chapter:

1 CHAPTER 56

2 EMPLOYEE SOCIAL MEDIA PRIVACY

3 **28-56-1. Definitions.** -- For the purposes of this chapter:

4 (1) "Social media account" means an electronic service or account, or electronic content,  
5 including, but not limited to, videos, still photographs, blogs, video blogs, podcasts, instant and  
6 text messages, email, online service or accounts, or Internet website profiles or locations. For the  
7 purposes of this chapter, social media account does not include an account opened at an  
8 employer's behest, or provided by an employer, or intended to be used primarily on behalf of the  
9 employer.

10 (2) "Applicant" means an applicant for employment.

11 (3) "Employee" means an individual who provides services or labor for an employer for  
12 wages or other remuneration.

13 (4) "Employer" includes the state and all political subdivisions of the state, and any  
14 person in this state, employing individuals, and any person acting in the interest of an employer  
15 directly or indirectly.

16 **28-56-2. Social media password requests prohibited.** -- No employer shall:

17 (1) Require, coerce or request an employee or applicant to disclose the password or any  
18 other means for accessing a personal social media account;

19 (2) Require, coerce or request an employee or applicant to access a personal social media  
20 account in the presence of the employer or representative;

21 (3) Require or coerce an employee or applicant to divulge any personal social media  
22 account information except when reasonably believed to be relevant to an investigation of  
23 allegations of employee misconduct or workplace-related violation of applicable laws and  
24 regulations and when not otherwise prohibited by law or constitution; provided, that the  
25 information is accessed and used solely to the extent necessary for purposes of that investigation  
26 or a related proceeding.

27 **28-56-3. Social media access requests prohibited.** -- No employer shall compel an

28 employee or applicant to add anyone, including the employer or their agent, to their list of  
29 contacts associated with a personal social media account or require, request, or cause an  
30 employee or applicant to alter settings that affect a third party's ability to view the contents of a  
31 personal social media account.

32 **28-56-4. Disciplinary actions prohibited.** -- No employer shall:

33 (1) Discharge, discipline, or otherwise penalize or threaten to discharge, discipline, or  
34 otherwise penalize any employee for an employee's refusal to disclose or provide access to any

1 information specified in § 28-56-2 or for refusal to add the employer to their list of contacts  
2 associated with a personal social media account or to alter the settings associated with a personal  
3 social media account, as specified in § 28-56-3; or

4 (2) Fail or refuse to hire any applicant as a result of the applicant's refusal to disclose or  
5 provide access to any information specified in § 28-56-2 or for refusal to add the employer or  
6 their agent to their list of contacts associated with a personal social media account or to alter the  
7 settings associated with a personal social media account, as specified in § 28-56-3.

8 **28-56-5. Exceptions. --** (a) This chapter shall not apply to information about an applicant  
9 or employee that is publicly available.

10 (b) This chapter shall not prohibit or restrict an employer from complying with a duty to  
11 screen employees or applicants before hiring or to monitor or retain employee communications  
12 that is established by a self-regulatory organization as defined by the securities and exchange act  
13 of 1934, 15 U.S.C. § 78c(a)(26) or under state or federal law or regulation to the extent necessary  
14 to supervise communications of regulated financial institutions, insurance or securities licensees  
15 for banking, insurance or securities related business purposes.

16 **28-56-6. Penalties for Violations. --** In any civil action alleging a violation of this  
17 chapter, the court may:

18 (1) Award to a prevailing applicant or employee declaratory relief, damages and  
19 reasonable attorneys' fees and costs; and

20 (2) Award injunctive relief against any employer or agent of any employer who commits  
21 or proposes to commit a violation of this chapter.

22 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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- 1 This act would establish a social media privacy policy for students and employees.
- 2 This act would take effect upon passage.

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