

SENATE AMENDMENTS TO SENATE BILL 344

By COMMITTEE ON GENERAL GOVERNMENT, CONSUMER AND SMALL BUSINESS
PROTECTION

April 17

1 On page 1 of the printed bill, line 2, after “information” insert a period and delete the rest of
2 the line and line 3.

3 Delete lines 5 through 30 and delete pages 2 and 3 and insert:

4 **“SECTION 1. (1) A public or private educational institution may not:**

5 **“(a) Require, request or otherwise compel a student or prospective student to disclose**
6 **or to provide access to a personal social media account through the student’s or prospective**
7 **student’s user name and password, password or other means of authentication that provides**
8 **access.**

9 **“(b) Require, request or otherwise compel a student or prospective student to access a**
10 **personal social media account in the presence of an administrator or other employee of the**
11 **educational institution in a manner that enables the administrator or employee to observe**
12 **the contents of the personal social media account.**

13 **“(c) Take, or threaten to take, any action to discipline or to prohibit from participation**
14 **in curricular or extracurricular activities a student or prospective student for refusal to**
15 **disclose the information or take actions specified in paragraph (a) or (b) of this subsection.**

16 **“(d) Fail or refuse to admit a prospective student as a result of the refusal by the pro-**
17 **spective student to disclose the information or take actions specified in paragraph (a) or (b)**
18 **of this subsection.**

19 **“(2) Nothing in this section prohibits an educational institution from:**

20 **“(a) Conducting an investigation, for the purpose of ensuring compliance with applicable**
21 **law, regulatory requirements or prohibitions against student misconduct, that is based on**
22 **the receipt of specific information about activity associated with a personal social media ac-**
23 **count.**

24 **“(b) Conducting an investigation authorized under paragraph (a) of this subsection that**
25 **requires the student to share specific content on a social media account with the educational**
26 **institution in order for the educational institution to make a factual determination about**
27 **that content. Student cooperation required under this paragraph does not include providing**
28 **the student’s user name and password, password or other means of authentication that**
29 **provides access to the student’s personal social media account to the educational institution.**

30 **“(c) Revoking a student’s access, in whole or in part, to equipment or computer networks**
31 **owned or operated by the educational institution.**

32 **“(3) An educational institution is not liable for obtaining the user name and password,**
33 **password or other means of authentication that provides access to a student’s social media**
34 **account through the application of the educational institution’s policies governing the use**
35 **of university equipment or computer networks owned or operated by the educational insti-**

1 **tution. However, the educational institution may not use the information obtained without**
2 **the voluntary consent of the student.**

3 **“(4) Nothing in this section applies to social media accounts intended for use solely for**
4 **educational purposes at an educational institution or to social media accounts that are cre-**
5 **ated by the educational institution and provided to the student if the student has been pro-**
6 **vided advance notice that the account may be monitored at any time by the educational**
7 **institution.**

8 **“(5) As used in this section:**

9 **“(a) ‘Educational institution’ means an institution that offers participants, students or**
10 **trainees an organized course of study or training that is academic, technical, trade-oriented**
11 **or preparatory for gainful employment in a recognized occupation. ‘Educational institution’**
12 **includes, but is not limited to, community colleges and the public universities listed in ORS**
13 **352.002 but does not include kindergarten, elementary or secondary schools.**

14 **“(b) ‘Social media’ means an electronic medium that allows users to create, share and**
15 **view user-generated content, including, but not limited to, uploading or downloading videos,**
16 **still photographs, blogs, video blogs, podcasts, instant messages, electronic mail or Internet**
17 **website profiles or locations.**

18 **“SECTION 2. (1) Any person claiming to be aggrieved by a violation of section 1 of this**
19 **2013 Act may file a civil action in circuit court for equitable relief or, subject to the terms**
20 **and conditions of ORS 30.265 to 30.300, damages, or both. The court may order such other**
21 **relief as may be appropriate. Damages shall be \$200 or actual damages, whichever is greater.**

22 **“(2) The action authorized by this section shall be filed within one year of the filing of a**
23 **grievance.**

24 **“(3) An action under this section may not be filed unless, within 180 days of the alleged**
25 **violation, a grievance has been filed with the governing body of the educational institution**
26 **against which the violation is alleged.**

27 **“(4) An action under this section may not be filed until 90 days after filing a grievance**
28 **unless only injunctive relief is sought pursuant to ORCP 79. The right to temporary or pre-**
29 **liminary injunctive relief shall be independent of the right to pursue any administrative**
30 **remedy available to complainants.**

31 **“(5) An action under this section may not be filed if the governing body of the educational**
32 **institution has obtained a conciliation agreement with the person filing the grievance or if**
33 **a final determination of the grievance has been made except as provided in ORS 183.480.**

34 **“(6) Notwithstanding the filing of a grievance pursuant to subsection (3) of this section,**
35 **a person seeking to maintain an action under this section against a public educational insti-**
36 **tution shall also file a notice of claim within 180 days of the alleged violation in the manner**
37 **provided by ORS 30.275.**

38 **“(7) The court shall award reasonable attorney fees to a prevailing plaintiff in any action**
39 **under this section. The court may award reasonable attorney fees and expert witness fees**
40 **incurred by a defendant who prevails in the action if the court determines that the plaintiff**
41 **had no objectively reasonable basis for asserting a claim or no objectively reasonable basis**
42 **for appealing an adverse decision of a trial court.”.**