

**PROPOSED AMENDMENTS TO  
SENATE BILL 344**

1 On page 1 of the printed bill, line 2, after “information” insert a period  
2 and delete the rest of 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  
5 not:**

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

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

16 **“(c) Take, or threaten to take, any action to discipline or to pro-  
17 hibit from participation in curricular or extracurricular activities a  
18 student or prospective student for refusal to disclose the information  
19 or take actions specified in paragraph (a) or (b) of this subsection.**

20 **“(d) Fail or refuse to admit a prospective student as a result of the  
21 refusal by the prospective student to disclose the information or take  
22 actions specified in paragraph (a) or (b) of this subsection.**

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

3       **“(a) Conducting an investigation, for the purpose of ensuring com-**  
4 **pliance with applicable law, regulatory requirements or prohibitions**  
5 **against student misconduct, that is based on the receipt of specific**  
6 **information about activity associated with a personal social media**  
7 **account.**

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

16       **“(c) Revoking a student’s access, in whole or in part, to equipment**  
17 **or computer networks owned or operated by the educational institu-**  
18 **tion.**

19       **“(3) An educational institution is not liable for obtaining the user**  
20 **name and password, password or other means of authentication that**  
21 **provides access to a student’s social media account through the ap-**  
22 **plication of the educational institution’s policies governing the use of**  
23 **university equipment or computer networks owned or operated by the**  
24 **educational institution. However, the educational institution may not**  
25 **use the information obtained without the voluntary consent of the**  
26 **student.**

27       **“(4) Nothing in this section applies to social media accounts in-**  
28 **tended for use solely for educational purposes at an educational insti-**  
29 **tution or to social media accounts that are created by the educational**  
30 **institution and provided to the student if the student has been pro-**

1 vided advance notice that the account may be monitored at any time  
2 by the educational institution.

3 “(5) As used in this section:

4 “(a) ‘Educational institution’ means an institution that offers par-  
5 ticipants, students or trainees an organized course of study or training  
6 that is academic, technical, trade-oriented or preparatory for gainful  
7 employment in a recognized occupation. ‘Educational institution’ in-  
8 cludes, but is not limited to, community colleges and the public uni-  
9 versities listed in ORS 352.002 but does not include kindergarten,  
10 elementary or secondary schools.

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

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

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

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

28 “(4) An action under this section may not be filed until 90 days after  
29 filing a grievance unless only injunctive relief is sought pursuant to  
30 ORCP 79. The right to temporary or preliminary injunctive relief shall

1 be independent of the right to pursue any administrative remedy  
2 available to complainants.

3 “(5) An action under this section may not be filed if the governing  
4 body of the educational institution has obtained a conciliation agree-  
5 ment with the person filing the grievance or if a final determination  
6 of the grievance has been made except as provided in ORS 183.480.

7 “(6) Notwithstanding the filing of a grievance pursuant to sub-  
8 section (3) of this section, a person seeking to maintain an action un-  
9 der this section against a public educational institution shall also file  
10 a notice of claim within 180 days of the alleged violation in the manner  
11 provided by ORS 30.275.

12 “(7) The court shall award reasonable attorney fees to a prevailing  
13 plaintiff in any action under this section. The court may award rea-  
14 sonable attorney fees and expert witness fees incurred by a defendant  
15 who prevails in the action if the court determines that the plaintiff  
16 had no objectively reasonable basis for asserting a claim or no objec-  
17 tively reasonable basis for appealing an adverse decision of a trial  
18 court.”.

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