

**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 delete line 3.

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

4 **“SECTION 1. Section 2 of this 2013 Act is added to and made a part**
5 **of ORS chapter 659A.**

6 **“SECTION 2. (1) It is an unlawful employment practice for an em-**
7 **ployer to:**

8 **“(a) Require, request, suggest or cause an employee or an applicant**
9 **for employment to disclose or to provide access through the**
10 **employee’s or applicant’s user name or password to a personal social**
11 **media account;**

12 **“(b) Compel an employee or applicant for employment to add the**
13 **employer or an employment agency to the employee’s or applicant’s**
14 **list of contacts associated with a social media website;**

15 **“(c) Take, or threaten to take, any action to discharge, discipline**
16 **or otherwise penalize an employee for the employee’s refusal to dis-**
17 **close, or to provide access through, the employee’s user name or**
18 **password associated with a personal social media account, or to add**
19 **the employer to the employee’s list of contacts associated with a social**
20 **media website; or**

21 **“(d) Fail or refuse to hire an applicant for employment because the**
22 **applicant refused to disclose, or to provide access through, the**

1 applicant's user name or password associated with a personal social
2 media account, or to add the employer to the applicant's list of con-
3 tacts associated with a social media website.

4 “(2) An employer may require an employee to disclose any user
5 name, password or other means for accessing nonpersonal accounts
6 that provide access to the employer's internal computer or informa-
7 tion systems.

8 “(3) As used in this section, ‘social media’ means an electronic
9 medium that allows users to create, share and view user-generated
10 content, including, but not limited to, uploading or downloading vid-
11 eos, still photographs, blogs, video blogs, podcasts, instant messages,
12 electronic mail or Internet website profiles or locations.

13 **“SECTION 3. (1) A public or private educational institution may
14 not:**

15 “(a) Require, request, suggest or cause a student or prospective
16 student to disclose or to provide access through the student's or pro-
17 spective student's user name or password to a personal social media
18 account.

19 “(b) Compel a student or prospective student, as a condition of
20 participation in curricular or extracurricular activities or of accept-
21 ance, to add a coach, teacher, administrator or other employee or
22 volunteer of the educational institution to the student's or prospective
23 student's list of contacts associated with a social media website.

24 “(c) Take, or threaten to take, any action to discharge, discipline,
25 prohibit from participation in curricular or extracurricular activities
26 or otherwise penalize a student or potential student for refusal to
27 disclose the information or take actions specified in paragraphs (a) and
28 (b) of this subsection.

29 “(d) Fail or refuse to admit a potential student as a result of the
30 refusal by the potential student to disclose the information or take

1 actions specified in paragraphs (a) and (b) of this subsection.

2 “(2) As used in this section:

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

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

15 “SECTION 4. (1) Any person claiming to be aggrieved by a violation
16 of section 3 of this 2013 Act may file a civil action in circuit court for
17 equitable relief or, subject to the terms and conditions of ORS 30.265
18 to 30.300, damages, or both. The court may order such other relief as
19 may be appropriate. Damages shall be \$200 or actual damages, which-
20 ever is greater.

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

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

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

1 available to complainants.

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

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

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

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