

By: Ellis

S.B. No. 416

A BILL TO BE ENTITLED

1 AN ACT
2 relating to restrictions on access to certain personal online
3 accounts through electronic communication devices by employers or
4 public or private institutions of higher education; establishing an
5 unlawful employment practice.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subchapter Z, Chapter 51, Education Code, is
8 amended by adding Section 51.978 to read as follows:

9 Sec. 51.978. RESTRICTIONS ON ACCESSING SOCIAL NETWORKING
10 ACCOUNTS OF CURRENT OR PROSPECTIVE STUDENTS. (a) In this section,
11 "electronic communication device" includes a computer, telephone,
12 personal digital assistant, or similar device that uses electronic
13 signals to create, transmit, and receive information.

14 (b) This section applies to institutions of higher
15 education and private or independent institutions of higher
16 education, as those terms are defined by Section 61.003.

17 (c) An institution to which this section applies may not:

18 (1) request or require that a current or prospective
19 student of the institution:

20 (A) disclose a user name, password, or other
21 means for accessing the student's social networking account or
22 profile through an electronic communication device;

23 (B) access the student's social networking
24 account or profile through an electronic communication device in

1 the presence of an agent or employee of the institution; or

2 (C) provide the institution or an agent or
3 employee of the institution access to the student's social
4 networking account or profile by adding the institution, agent, or
5 employee as a person with the student's permission to view the
6 student's account or profile in a manner not available to persons
7 without the student's permission;

8 (2) access a student or prospective student of the
9 institution's social networking account or profile through or using
10 information obtained from a person who has been granted permission
11 by the student to view the student's account or profile in a manner
12 not available to persons without the student's permission; or

13 (3) retaliate or threaten to retaliate against a
14 student or prospective student of the institution, including by
15 subjecting the student to disciplinary action, affecting the
16 student's financial aid eligibility or award, or restricting,
17 withholding, or revoking the student's admission to or enrollment
18 status at the institution, for the student's refusal to provide the
19 institution with access to the student's social networking account
20 or profile in a manner described by Subdivision (1).

21 (d) This section does not prohibit an institution to which
22 this section applies from:

23 (1) accessing a current or prospective student's
24 social networking account or profile as part of:

25 (A) a legitimate investigation of suspected
26 criminal activity by the student conducted by the institution's
27 peace officers; or

1 (B) an investigation, inquiry, or determination
2 conducted by the institution pursuant to its threat assessment
3 policy or protocol; or

4 (2) obtaining online information about a current or
5 prospective student that is in the public domain or that is
6 otherwise lawfully obtained by the institution.

7 SECTION 2. Subchapter B, Chapter 21, Labor Code, is amended
8 by adding Section 21.0605 to read as follows:

9 Sec. 21.0605. REQUIRING OR REQUESTING PERSONAL ACCOUNT
10 ACCESS. (a) In this section, "electronic communication device"
11 includes a computer, telephone, personal digital assistant, or
12 similar device that uses electronic signals to create, transmit,
13 and receive information.

14 (b) An employer commits an unlawful employment practice if
15 the employer requires or requests that an employee or applicant for
16 employment disclose a user name, password, or other means for
17 accessing a personal account of the employee or applicant,
18 including a personal e-mail account or a social networking account
19 or profile, through an electronic communication device.

20 (c) This section does not prohibit an employer from:

21 (1) maintaining lawful workplace policies governing:

22 (A) employee usage of employer-provided
23 electronic communication devices, including employee access to
24 personal accounts on those devices; or

25 (B) employee usage of personal electronic
26 communication devices during working hours;

27 (2) monitoring employee usage of employer-provided

1 electronic communication devices or employer-provided e-mail
2 accounts; or

3 (3) obtaining online information about an employee or
4 applicant for employment that is in the public domain or that is
5 otherwise lawfully obtained.

6 SECTION 3. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2013.