

AMENDED IN SENATE MARCH 27, 2012

SENATE BILL

No. 1349

Introduced by Senator Yee

February 24, 2012

An act to ~~amend Section 11167 of the Penal Code~~ *add Chapter 2.5 (commencing with Section 99120) to Part 65 of Division 14 of Title 3 of the Education Code, and to add Chapter 2.5 (commencing with Section 980) to Part 3 of Division 2 of the Labor Code*, relating to ~~child abuse reporting~~ *social media privacy*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1349, as amended, Yee. ~~Child abuse reporting: mandated reporters.~~ *The Social Media Privacy Act: postsecondary education and employment.*

Existing law establishes and sets forth the missions and functions of the public and independent institutions of postsecondary education in the state.

Existing law generally regulates the conduct of employers in the state.

This bill would prohibit a postsecondary educational institution and an employer, whether public or private, from requiring, or formally requesting in writing, a student or an employee, or a prospective student or employee, to disclose the user name or account password for a personal social media account, or to otherwise provide the institution or employer with access to any content of that account.

~~Existing law, the Child Abuse and Neglect Reporting Act, requires a mandated reporter, as defined, to report whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or~~

~~neglect. Failure to report an incident is a crime punishable by imprisonment in a county jail for a period of 6 months, a fine of up to \$1,000, or by both that imprisonment and fine. The report of suspected child abuse or neglect is required to include specified information, including the capacity that makes the person a mandated reporter, the information that gave rise to the suspicion of child abuse or neglect, and the source of that information.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. This act shall be known, and may be cited, as the*
2 *Social Media Privacy Act.*

3 *SEC. 2. Chapter 2.5 (commencing with Section 99120) is added*
4 *to Part 65 of Division 14 of Title 3 of the Education Code, to read:*

5
6 *CHAPTER 2.5. SOCIAL MEDIA PRIVACY*

7
8 99120. *As used in this chapter, “social media” means an*
9 *electronic medium where users may create, share, and view*
10 *user-generated content, including uploading or downloading videos*
11 *or still photographs, blogs, video blogs, podcasts, instant messages,*
12 *or Internet Web site profiles or locations.*

13 99121. *A public or private postsecondary educational*
14 *institution shall not require, or formally request in writing, a*
15 *student or prospective student to disclose the user name or account*
16 *password for a personal social media account or to otherwise*
17 *provide the institution with access to any content of that account.*

18 *SEC. 3. Chapter 2.5 (commencing with Section 980) is added*
19 *to Part 3 of Division 2 of the Labor Code, to read:*

20
21 *CHAPTER 2.5. SOCIAL MEDIA PRIVACY*

22
23 980. *As used in this chapter, “social media” means an*
24 *electronic medium where users may create, share, and view*
25 *user-generated content, including uploading or downloading videos*

1 *or still photographs, blogs, video blogs, podcasts, instant messages,*
2 *or Internet Web site profiles or locations.*

3 *981. An employer, whether public or private, shall not require,*
4 *or formally request in writing, an employee or prospective*
5 *employee to disclose the user name or account password for a*
6 *personal social media account or to otherwise provide the*
7 *employer with access to any content of that account.*

8 SECTION 1. ~~Section 11167 of the Penal Code is amended to~~
9 ~~read:~~

10 ~~11167. (a) Reports of suspected child abuse or neglect pursuant~~
11 ~~to Section 11166 or Section 11166.05 shall include the name,~~
12 ~~business address, and telephone number of the mandated reporter;~~
13 ~~the capacity that makes the person a mandated reporter; and the~~
14 ~~information that gave rise to the reasonable suspicion of child~~
15 ~~abuse or neglect, and the source or sources of that information.~~
16 ~~When a report is made, the following information, if known, shall~~
17 ~~also be included in the report: the child's name, the child's address,~~
18 ~~present location, and, if applicable, school, grade, and class; the~~
19 ~~names, addresses, and telephone numbers of the child's parents or~~
20 ~~guardians; and the name, address, telephone number, and other~~
21 ~~relevant personal information about the person or persons who~~
22 ~~might have abused or neglected the child. The mandated reporter~~
23 ~~shall make a report even if some of this information is not known~~
24 ~~or is uncertain to him or her.~~

25 ~~(b) Information relevant to the incident of child abuse or neglect~~
26 ~~and information relevant to a report made pursuant to Section~~
27 ~~11166.05 may be given to an investigator from an agency that is~~
28 ~~investigating the known or suspected case of child abuse or neglect.~~

29 ~~(c) Information relevant to the incident of child abuse or neglect,~~
30 ~~including the investigation report and other pertinent materials,~~
31 ~~and information relevant to a report made pursuant to Section~~
32 ~~11166.05 may be given to the licensing agency when it is~~
33 ~~investigating a known or suspected case of child abuse or neglect.~~

34 ~~(d) (1) The identity of all persons who report under this article~~
35 ~~shall be confidential and disclosed only among agencies receiving~~
36 ~~or investigating mandated reports, to the prosecutor in a criminal~~
37 ~~prosecution or in an action initiated under Section 602 of the~~
38 ~~Welfare and Institutions Code arising from alleged child abuse,~~
39 ~~or to counsel appointed pursuant to subdivision (c) of Section 317~~
40 ~~of the Welfare and Institutions Code, or to the county counsel or~~

1 prosecutor in a proceeding under Part 4 (commencing with Section
2 7800) of Division 12 of the Family Code or Section 300 of the
3 Welfare and Institutions Code, or to a licensing agency when abuse
4 or neglect in out-of-home care is reasonably suspected, or when
5 those persons waive confidentiality, or by court order.

6 ~~(2) No agency or person listed in this subdivision shall disclose~~
7 ~~the identity of any person who reports under this article to that~~
8 ~~person's employer, except with the employee's consent or by court~~
9 ~~order.~~

10 ~~(e) Notwithstanding the confidentiality requirements of this~~
11 ~~section, a representative of a child protective services agency~~
12 ~~performing an investigation that results from a report of suspected~~
13 ~~child abuse or neglect made pursuant to Section 11166 or Section~~
14 ~~11166.05, at the time of the initial contact with the individual who~~
15 ~~is subject to the investigation, shall advise the individual of the~~
16 ~~complaints or allegations against him or her, in a manner that is~~
17 ~~consistent with laws protecting the identity of the reporter under~~
18 ~~this article.~~

19 ~~(f) Persons who may report pursuant to subdivision (g) of~~
20 ~~Section 11166 are not required to include their names.~~