

AMENDED IN SENATE MARCH 27, 2012

**SENATE BILL**

**No. 1349**

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**Introduced by Senator Yee**

February 24, 2012

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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.~~