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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1077

03/04/2013 Authored by Franson and Wills

The bill was read for the first time and referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to education; postsecondary; establishing the Education Internet Privacy
1.3 Protection Act; providing penalties; proposing coding for new law as Minnesota
1.4 Statutes, chapter 135B.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[135B.01] EDUCATION INTERNET PRIVACY PROTECTION ACT.**

1.7 Subdivision 1. **Title.** This section may be cited as the "Education Internet Privacy
1.8 Protection Act."

1.9 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have
1.10 the meanings given them.

1.11 (b) "Access information" means user name, password, login information, or other
1.12 security information that protects access to a personal Internet account.

1.13 (c) "Educational institution" includes the following:

1.14 (1) a public or private school enrolling students in any or all of kindergarten through
1.15 grade 12;

1.16 (2) a charter school under section 124D.10;

1.17 (3) any school district or local school board;

1.18 (4) the University of Minnesota;

1.19 (5) state universities;

1.20 (6) state community colleges;

1.21 (7) public technical colleges;

1.22 (8) private four-year, professional, and graduate institutions;

1.23 (9) private two-year colleges; and

1.24 (10) schools subject to chapter 141.

2.1 Subd. 3. **Prohibited acts.** An educational institution shall not do any of the
2.2 following:

2.3 (1) request a student or prospective student to grant access to, allow observation
2.4 of, or disclose information that allows access to or observation of the student's or the
2.5 prospective student's personal Internet account; or

2.6 (2) expel, discipline, fail to admit, or otherwise penalize a student or prospective
2.7 student for failure to grant access to, allow observation of, or disclose information that
2.8 allows access to or observation of the student's or prospective student's personal Internet
2.9 account.

2.10 Subd. 4. **Exceptions.** (a) This section does not prohibit an educational institution
2.11 from requesting or requiring a student to disclose access information to the educational
2.12 institution to gain access to or operate any of the following:

2.13 (1) an electronic communications device paid for in whole or in part by the
2.14 educational institution; or

2.15 (2) an account or service provided by the educational institution that is either
2.16 obtained by virtue of the student's admission to the educational institution or used by the
2.17 student for educational purposes.

2.18 (b) This section does not prohibit or restrict an educational institution from viewing,
2.19 accessing, or utilizing information about a student or applicant that can be obtained
2.20 without any required access information or that is available in the public domain.

2.21 Subd. 5. **No duty created.** (a) This section does not create a duty for an educational
2.22 institution to search or monitor the activity of a personal Internet account.

2.23 (b) An educational institution is not liable under this section for failure to request or
2.24 require that a student or a prospective student grant access to, allow observation of, or
2.25 disclose information that allows access to or observation of the student's or prospective
2.26 student's personal Internet account.

2.27 Subd. 6. **Penalties.** (a) A person who violates subdivision 3 is guilty of a
2.28 misdemeanor punishable by a fine of not more than \$1,000.

2.29 (b) An individual who is the subject of a violation of this section may bring a civil
2.30 action to enjoin a violation of subdivision 3 and may recover not more than \$1,000 in
2.31 damages plus reasonable attorney fees and court costs. Not later than 60 days before
2.32 filing a civil action for damages or 60 days before adding a claim for damages to an
2.33 action seeking injunctive relief, the individual shall make a written demand of the
2.34 alleged violator for not more than \$1,000. The written demand shall include reasonable
2.35 documentation of the violation. The written demand and documentation shall either be
2.36 served in the manner provided by law for service of process in civil actions or mailed by

3.1 certified mail with sufficient postage affixed and addressed to the alleged violator at his
3.2 or her residence, principal office, or place of business. An action under this subdivision
3.3 may be brought in the district court for the county where the alleged violation occurred
3.4 or for the county where the person against whom the civil complaint is filed resides or
3.5 has his or her principal place of business.

3.6 (c) It is an affirmative defense to an action under this section that the educational
3.7 institution acted to comply with requirements of a federal law or a law of this state.