



**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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February 15, 2013

To: The Honorable Karl Rhoads, Chair,  
The Honorable Sharon E. Har, Vice Chair, and  
Members of the House Committee on Judiciary

Date: Friday, February 15, 2013  
Time: 2:00 p.m.  
Place: Conference Room 325, State Capitol

From: Dwight Y. Takamine, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: H.B. No. 713, H.D. 1 Relating to Social Media**

**I. OVERVIEW OF PROPOSED LEGISLATION**

This measure prohibits employers from requiring employees or applicants to disclose usernames and passwords, access or divulge personal accounts except those reasonably believed to be relevant to investigations of employee misconduct or violation of applicable law.

H.D. 1 places the new provision in Employment Practices, Part III (Unlawful Suspension or Discharge), Chapter 378, Hawaii Revised Statutes. (HRS)

The DLIR is supportive of legislation that protects employees' privacy.

**II. CURRENT LAW**

There is no provision in the labor law that protects personal accounts from employer access.

**III. COMMENTS ON THE HOUSE BILL**

The protection to the employee is limited to protection of personal accounts in social networking websites. The measure prohibits an employer from discharging or disciplining or threatening to discharge or discipline if an employee does not provide the protected personal account information. The Department recommends amending section 378-32, H.R.S. to provide for this unlawful behavior within the confines of the

other provisions of Part III. Proposed language to 378-32, HRS would add a paragraph c to read:

“(c) It shall be unlawful for an employer to discharge, discipline, threaten to discipline or discharge or retaliate against an employee or applicant for not complying with a request to disclose, access, or divulge any personal account as provided in section 378-\_\_.”

As the penalties for Part III include only back pay or re-instatement (see 378-35, HRS) is unclear what the remedy will be for violation.

Part III, Chapter 378, HRS does not apply to the State or political subdivision employer. If the intent is to have this apply to all employers it is recommended that making a new Part will make that clear.

**Testimony to the House Committee on Judiciary  
Friday, February 15, 2013 at 2:00 P.M.  
Conference Room 325, State Capitol**

**RE: HOUSE BILL 713 HD 1 RELATING TO SOCIAL MEDIA**

Chair Rhoads, Vice Chair Har, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **has serious concerns on HB 713 HD 1 Relating to Social Media.**

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber appreciates the intent of the bill. We understand that several high profile cases that happened on the mainland brought this issue forward. However, we do not believe that this is a prevalent problem in Hawaii.

We appreciate the intent of the bill but we believe that it needs more discussion before moving forward.

Thank you for this opportunity to express our views.

**TESTIMONY ON  
HB 713, HD 1, RELATING TO SOCIAL MEDIA  
BY  
JEANNINE SOUKI  
ON BEHALF OF THE  
STATE PRIVACY AND SECURITY COALITION**

**The Honorable Karl Rhoads  
Chair, House Committee on Judiciary  
Hawaii State Capitol, Room 325  
Friday, February 15, 2013, 2:00 PM**

- The State Privacy and Security Coalition – a coalition of leading communications, technology and media companies and trade associations – writes to express our serious concerns with HB 713, HD 1, as currently drafted. We appreciate the overall intent of the bill, but believe that it is very important that the bill be narrowed slightly and balanced with additional exceptions if it is to become law.
- The bill would, among other things, prohibit an employer from requiring or requesting an employee or applicant to disclose a username or password for the purpose of obtaining access to the employee's or applicant's social media accounts. As drafted, this would prohibit employers from asking an employee for his or her home email address, because this is often the “user name” for personal online accounts, or from friending any employees on Facebook.
- There have been reports of employers asking job-seekers for access to job-seekers’ personal social media accounts. We agree that there is no valid reason for employers in almost all sectors to request that job applicants relinquish log-in credentials for personal social media accounts.
- It is likewise true that obtaining private account log-in credentials for an employee can be a significant privacy intrusion, and should occur only for very narrow and specific purposes.
- At the same time, none of these concerns apply to employee use of work accounts provided by an employer, or to online accounts that an employee uses for business purposes. It is critical that social media privacy bills not prevent employers from supervising work-related employee activities – for example, following an employee’s job-related posts on Twitter through an account that the employee has set up (in fact, this is sometimes required by federal securities laws). It is likewise critical that employers be able to access these accounts as employers can be held legally responsible for employee actions using these accounts, and because they are the employer’s property.
- Furthermore, it is essential that employers be able to investigate specific allegations of illegal activity or work-related misconduct by employees involving an employee personal account. For example, if an employee is harassing or threatening another employee from a personal online account, responsible employers need to be able to investigate the allegation to maintain a safe working environment.

- Similarly, if an employee is alleged to have engaged in insider trading or bribery from a personal online account, employers have a responsibility to investigate. Furthermore, when employees download confidential information – for instance, business plans or sensitive personal information that could be used for identity theft – from work computers to a personal online account, it is important that the employer be able to investigate.
- While the bill contains an exception for employers “*to require an employee to divulge personal social media reasonably believed to be relevant to an investigation of allegations of employee misconduct or employee violation of applicable law,*” this should be broadened to help employers protect their employees from a dangerous working environment and to help employers protect their trade secrets.
- The economic impact of the failure to expand this exception could be very significant. Increasingly, foreign companies are bribing employees of U.S. companies to steal intellectual property/trade secret information that foreign companies are unable to license in the marketplace. In fact, there have been several successful federal prosecutions of this behavior. Failure to broaden exceptions for legitimate employer investigations would assist in creating a “safe zone” for employees who want to steal valuable IP assets of companies in your state by transferring them to the employee’s social media account.
- For these reasons, we strongly support narrow exemptions to augment an employer’s ability to ask an employee – not a job applicant – to share the contents of a personal online account – without obtaining the employee’s password to that account – in response to a specific allegation of work-related misconduct involving that personal online account. However, these exemptions would not cover asking the employee to divulge the employee’s log-in credentials to any such personal online account.
- Likewise, this bill should not prevent employers from protecting company networks, blocking access to restricted websites, or complying with legal requirements.
- Without these narrow and entirely reasonable exceptions, this very well-intentioned bill could be used as a shield by employees to hide illegal conduct or undermine the security of company networks and devices. With them, the bill would address an important privacy issue in a thoughtful and balanced way.
- Finally, to the extent that employers are prohibited from requesting job applicants’ or employees’ log-in credentials, employers should not be subject to any claim for negligent hiring for failing to make that prohibited request.
- We respectfully urge the Committee to oppose this bill, unless it is amended to address the issues above. For your convenience, we have attached a potential amendment to the bill and would be happy to work with you further on this. Thank you for the opportunity to testify, and we appreciate your consideration of our concerns.

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# A BILL FOR AN ACT

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RELATING TO SOCIAL MEDIA.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. Chapter 378, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

"§378- Employer access to employee personal accounts prohibited. (a) An employer shall not require or request an employee or applicant for employment to do any of the following:

- (1) Disclose a username and password,<sup>1</sup> or password for the purpose of accessing the employee's or applicant's personal account;
- (2) Access the employee's or applicant's personal account in the presence of the employer; or
- (3) Divulge any personal account, except as provided in subsection (b).

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<sup>1</sup> It is very important that this bill not apply to user names alone, because these are frequently work or personal email addresses that employees use as their standard log-in for personal accounts and that employers routinely collect for ordinary HR purposes. Without this change, the bill would create strict liability when employers don't even know that they are collecting a user name for personal social media.

1 (b) Nothing in this section shall preclude an employer  
2 from conducting an investigation or requiring that an employee  
3 cooperate in an investigation in the following circumstances:<sup>2</sup>

4 (1) Where an employer has received specific information  
5 about an employee's use of a personal account for business  
6 purposes to ensure compliance with applicable laws, regulatory  
7 requirements, or prohibitions against work-related employee  
8 misconduct.

9 (2) Where an employer has specific information about the  
10 unauthorized transfer of the employer's proprietary information,  
11 confidential information, or financial data to an employee's  
12 personal account.

13 (3) Conducting an investigation pursuant to subsection (b)  
14 includes requiring the employee's cooperation to share the  
15 content that has been reported in order to make a factual  
16 determination.<sup>3</sup>

**Deleted:** affect an employer's existing rights and obligations to require an employee to divulge a personal account reasonably believed to be relevant to an investigation of allegations of employee misconduct or employee violation of applicable law; provided that such information is used solely for purposes of that investigation or a related proceeding.

<sup>2</sup> As adopted in the Senate companion bill, SB 207 (SD 1), these changes would create narrow and reasonable exceptions allowing an employer to conduct an investigation if the employer has specific information about work-related employee misconduct or an unauthorized transfer of proprietary information, confidential information, or financial data to an employee's personal account.

<sup>3</sup> This language clarifies that the employer can review the specific content of the account, but does NOT say that the employer can actually obtain the user name and password.

1 (c) Nothing in this section shall be construed to prevent  
2 an employer from complying with the requirements of state or  
3 federal statutes, rules, regulations, or case law, or rules of  
4 self-regulatory organizations.

5 (d) Nothing in this section shall preclude an employer  
6 from requiring or requesting an employee to disclose a username  
7 or password for the purpose of accessing:

8 (i) any electronic communications device supplied or paid  
9 for in whole or in part by the employer;<sup>4</sup> or

Deleted: employer-issued

10 (ii) any accounts or services provided by the employer or  
11 by virtue of the employee's employment relationship with the  
12 employer or that the employee uses for business purposes.<sup>5</sup>

13 (e) An employer shall not be held liable for failure to  
14 request or require that an employee or applicant disclose any  
15 information specified in subsection (a) (1) of this section.<sup>6</sup>

<sup>4</sup> This change is helpful to avoid dis-incentivizing employers from offering bring your own device programs where they use their smart phones and other personal devices instead of an employer-issued device. If the device is used for work purposes and is paid for in part by the employer, it should be searchable like a work computer.

<sup>5</sup> If employees use personal accounts such as Facebook or LinkedIn accounts for business purposes to promote company products or services, the company may have an obligation to review the accounts to make sure that the employee's postings on behalf of the company comply with securities and consumer protection laws.

<sup>6</sup> Employers who are prohibited from checking employee account information should not be held liable for not checking it.



1 (f) Nothing in this section shall prohibit an employer from  
 2 monitoring, reviewing, accessing or blocking electronic data  
 3 stored on an electronic communications device paid for in whole  
 4 or in part by the employer, or traveling through or stored on an  
 5 employer's network, in compliance with state and federal law.<sup>7</sup>

6 (g) An employer shall not discharge, discipline, threaten  
 7 to discharge or discipline, or retaliate against an employee or  
 8 applicant for not complying with a request or demand by the  
 9 employer that violates this section; provided that this section  
 10 shall not prohibit an employer from terminating or taking an  
 11 adverse action against an employee or applicant if otherwise  
 12 permitted by law.

13 (f) This section shall not apply to law enforcement  
 14 agencies conducting background checks of applicants for  
 15 employment; provided that at no time shall a law enforcement  
 16 agency require an applicant or employee to disclose the  
 17 applicant or employee's password for a personal account.

18 (h) As used in this section, "personal account" means an  
 19 account, service or profile on a social networking website that

Deleted: g

<sup>7</sup> As drafted, the bill could chill the deployment of cyber-security measures and "data loss prevention" tools to prevent security breaches on a company's networks, as these programs may inadvertently collect user name and password information when employees log in to personal accounts from work.

1 is used by a current or prospective employee exclusively for  
 2 personal communications unrelated to any business purposes of  
 3 the employer. This definition shall not apply to any account,  
 4 service, profile or electronic mail<sup>8</sup> created, maintained, used or  
 5 accessed by a current or prospective employee for business  
 6 purposes of the employer or to engage in business related  
 7 communications."

8 SECTION 2. This Act does not affect rights and duties that  
 9 matured, penalties that were incurred, and proceedings that were  
 10 begun before its effective date.

11 SECTION 3. New statutory material is underscored.

12 SECTION 4. This Act shall take effect upon its approval.

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<sup>8</sup> This change was adopted in the Senate companion bill, SB 207(SD 1) upon request of the financial services industry. Financial service companies proposed this change to assure that the bill does not undermine their regulatory obligations, such as under FINRA rules, (e.g., FINRA Rule 3270 Outside Business Activities of Registered Persons) to supervise representatives and monitor their email accounts used for "outside business activities" by limiting access to what would otherwise be a personal email account.

# H.B. NO. 713 H.D. 1

**Report Title:**

Personal Account; Privacy; Employment

**Description:**

Prohibits employers from requiring employees and applicants for employment from disclosing personal account usernames or passwords. Creates an exception for law enforcement agencies conducting background checks of applicants for employment.

(HB713 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



Committee: Committee on Judiciary  
Hearing Date/Time: February 15, 2013 / 2:00 pm  
Place: Conference Room 325  
Re: Testimony of the ACLU of Hawaii in Support of H.B. 713, HD1, Relating to Social Media

Dear Chair Rhoads and Members of the Committee on Judiciary:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of H.B. 713 HD1, which prohibits social media snooping by employers.

The ACLU of Hawaii respectfully requests the following amendments:

- 1) Broaden the language in §378 (a) to “require, request, suggest or cause” in order to properly address potential employer-employee interactions, and
- 2) Delete the law enforcement exception in §378 (f). Law enforcement agencies will still retain access to all publicly available information (and thus all information implicating public perception of the employer). This situation begs the question: should we allow a law enforcement agency to require applicants to open up their diaries so the agency can read them, so long as the agency doesn’t ask for the key? How about applicants’ email or regular mail? Law enforcement and government employees do not check their right to have a personal life just because of their vocation.

Please note that social media snooping by employers may expose information about a job applicant (such as age, religion, ethnicity, or pregnancy) which an employer is forbidden to ask about. That can expose an applicant to unlawful discrimination and can subject an employer to lawsuits from rejected job candidates claiming such discrimination. Moreover, when a person is forced to share private account information, not only has that person’s privacy been violated, but also the privacy of friends, family, clients, and anyone else with whom that person may have communicated or connected with online.

**This law is necessary because the privacy line should be clear: any communications not intended to be viewable by the general public are out of bounds for all employers, including law enforcement.**

American Civil Liberties Union of Hawaii  
P.O. Box 3410  
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A growing number of employers are demanding that job applicants and employees hand over the passwords to their private social networking accounts such as Facebook. Such demands constitute a grievous invasion of privacy. Private activities that would never be intruded upon offline should not receive less privacy protection simply because they take place online. It is inconceivable that an employer would be permitted to read an applicant's diary or postal mail, listen in on the chatter at their private gatherings with friends, or look at their private videos and photo albums. Nor should they expect the right to do the electronic equivalent.

Employer policies that request or require employees or applicants to disclose user names and/or passwords to their private internet or web-based accounts, or require individuals to let employers view their private content, constitute a frightening and illegal invasion of privacy for those applicants and employees -- as well those who communicate with them electronically via social media. Even when a Facebook page is open to all, it goes too far to require a person to share login information or otherwise permit the viewing of private messages that have been exchanged using the service.

We are concerned that employers may begin to require this information from job applicants without clear statutory language against it. While employers may permissibly incorporate some limited review of public internet postings into their background investigation procedures, review of password-protected materials overrides the privacy protections users have erected and thus violates their reasonable expectations of privacy in these communications. As such, we believe that policies such as this may be illegal under the federal Stored Communications Act (SCA), 18 U.S.C. §§2701-11 and Hawaii's privacy laws.<sup>1</sup> These laws were enacted to ensure the confidentiality of electronic communications, and make it illegal for an employer or anyone else to access stored electronic communications without valid authorization. Additionally, such practices constitute the common law tort of invasion of privacy and arguably chill employee speech and due process rights protected under the First and Fourteenth Amendments to the U.S. Constitution.<sup>2</sup>

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<sup>1</sup> Section 2701 of the SCA makes it illegal to intentionally (1) access a facility through which an electronic communication service is provided, without valid authorization; or (2) exceed an authorization to access that facility, thereby obtaining an electronic communication while it is in electronic storage in such a system. 18 U.S.C. §2701(a)(1)-(2).

<sup>2</sup> In a different context factually, the National Labor Relations Board (NLRB) made headlines last November by issuing a complaint against a Connecticut company that fired an employee who criticized the company on Facebook, in violation of the company's social media policy. *E.g.*, "Feds: Woman Illegally Fired Over Facebook Remarks," available at: [http://www.myfoxdc.com/dpp/news/offbeat/feds-woman-illegally-fired-over-facebook-remarks-110910?CMP=201011\\_emailshare](http://www.myfoxdc.com/dpp/news/offbeat/feds-woman-illegally-fired-over-facebook-remarks-110910?CMP=201011_emailshare); "Labor Board: Facebook Vent Against Supervisor Not Grounds for Firing," available at: <http://www.cnn.com/2010/TECH/social.media/11/09/facebook.firing/index.html> The NLRB maintains that both the firing and the social media policy itself violate employees' protected speech rights under the National Labor Relations Act. See NLRB Press Release, [http://www.nlr.gov/shared\\_files/Press%20Releases/2010/R-2794.pdf](http://www.nlr.gov/shared_files/Press%20Releases/2010/R-2794.pdf). While the Connecticut case involves the employee's right to engage in particular speech protected under the NLRA, it also addresses the limits that federal law places on employers' interference and monitoring of employees' social media use more generally, and thus is worthy of notice.

Chair Rhoads and Members of Committee on Judiciary  
February 15, 2013  
Page 3 of 3

These types of practices also violate Facebook's own policies. Facebook's Statement of Rights and Responsibilities states under the "Registration and Account Security" section that Facebook users must make ten commitments to the company relating to the registration and maintenance of the security of the account. The Eighth Commitment states "You will not share your password, (or in the case of developers, your secret key), let anyone else access your account, or do anything else that might jeopardize the security of your account."

<https://www.facebook.com/terms#!/legal/terms>. Thus, sharing one's password or access to one's account with potential or current employers violates these terms of agreement.

### **H.B. 713 merely updates current law to keep pace with technology.**

This legislation does not change current law regarding background checks. Prospective employers, including law enforcement officials, can still use the Internet to access public profiles of job candidates. All this law prohibits is accessing private sites and materials. The employer will still retain access to all publicly available information (and thus all information implicating public perception of the employer).

Electronic surveillance often goes well beyond legitimate management concerns and becomes a tool for employers to spy on the personal and private lives of their employees. Employers have a *legitimate* interest in monitoring employees' work to ensure efficiency and productivity. H.B. 713 would not prohibit legitimate work-related oversight and would make sure employees' private lives can remain private. In the interest of maintaining our right to privacy, free speech and association, please pass H.B. 713, HD1 with our suggested amendments.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple  
Staff Attorney and Legislative Program Director  
ACLU of Hawaii

*The ACLU has been the nation's guardian of liberty since 1925 and the ACLU of Hawaii since 1965 and works daily in the courts, legislatures and communities to defend and preserve the individual rights and liberties equally guaranteed to all by the Constitutions and laws of the United States and Hawaii. The ACLU works to ensure that the government does not violate our constitutional rights, including, but not limited to, freedom of speech, association and assembly, freedom of the press, freedom of religion, fair and equal treatment, and privacy. The ACLU network of volunteers and staff works throughout the islands to defend these rights, often advocating on behalf of minority groups that are the target of government discrimination. If the rights of society's most vulnerable members are denied, everyone's rights are imperiled.*

**American Civil Liberties Union of Hawai'i**  
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February 15, 2013

Representative Karl Rhodes and the Committee on Judiciary  
Representative Sharon E. Har, Vice Chair  
Hawaii State Capital  
415 South Beretania Street, Room 325  
Honolulu, Hawaii 96813

Subject: H.B. No.713 Hearing February 15, 2013 Testimony in Support.

To: Representative Karl Rhodes and the Committee of Judiciary.

Aloha, my name is Steve Canales, and I strongly support H.B. 713, Relating To Social Media.

This measure will take away some of our first amendment rights, i.e. Freedom of speech.

An employer should not have the right to request 'user name' and 'passwords' on personal accounts. First, anyone who gives up their 'user name' and 'password' will be in violation of Facebook's Privacy Laws. Second, on Personal Accounts, will this information be used against any employee of the company for promotion or transfers? Most selections occur in a closed-door environment, the employer could use this personal account information, without the employee knowing about it.

I strongly support H.B. 713. I would like to thank, the Committee on Judiciary for this opportunity to testify.

Sincerely,

Steve Canales  
Labor Caucus Chair  
Democratic Party of Hawaii  
1050 Ala Moana Blvd. Ste. #2150  
Honolulu, Hawaii 96814

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS  
COMMENTING ON HB 713, HD 1, RELATING TO SOCIAL MEDIA

February 15, 2013

Hon. Representative Karl Rhoads, Chair  
Committee on Judiciary  
State House of Representatives  
Hawaii State Capitol, Conference Room 325  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Rhoads and Committee Members:

Thank you for the opportunity to comment on HB 713, HD 1, relating to Social Media.

Our firm represents the American Council of Life Insurers (“ACLI”), a Washington, D.C., based trade association with more than 300 member companies operating in the United States and abroad. ACLI advocates in federal, state, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers’ products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing more than 90 percent of industry assets and premiums. Two hundred thirty-two (232) ACLI member companies currently do business in the State of Hawaii; and they represent 94% of the life insurance premiums and 92% of the annuity considerations in this State.

Today, many individuals use social media accounts and personal devices for both business and personal purposes.

ACLI and its member companies believe that an individual’s personal information should remain private and should not be subject to arbitrary inspection by an employer or prospective employer.

Accordingly, ACLI supports the intent and purposes of HB 713, HD 1.

However, legislation which seeks to protect strictly personal social media account information must simultaneously accommodate legal and regulatory requirements imposed upon life insurers that certain communications be reviewed and retained to comply with recordkeeping and other legal requirements.

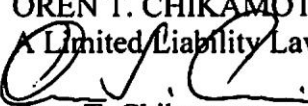
Life insurance companies have legal obligations with respect to business communications made by their captive insurance producers and registered representatives of their affiliated broker-dealers or registered investment advisers (RIAs) under Hawaii insurance and federal and Hawaii securities laws and regulations as well as rules of self-regulatory organizations, such as FINRA.

ACLI submits that more clarity in the language of the bill is required to enable a life insurer to more effectively monitor and supervise its captive producers’ in their communications with the public as required by law but at the same time protect the legitimate privacy of its captive producers and representatives in their personal communications.



ACLI, therefore, supports the proposed revisions to the bill submitted to this Committee by the State Privacy and Security Coalition.

Again, thank you for the opportunity to comment on HB 713, HD 1, relating to Social Media.

LAW OFFICES OF  
OREN T. CHIKAMOTO  
A Limited Liability Law Company  
  
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1001 Bishop Street, Suite 1750  
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## har2-Vincent

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 14, 2013 2:41 AM  
**To:** JUDtestimony  
**Cc:** blarrabeeduarte@hawaii.rr.com  
**Subject:** Submitted testimony for HB713 on Feb 15, 2013 14:00PM

### **HB713**

Submitted on: 2/14/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Barbara Larrabee Duarte	Individual	Support	No

Comments: I support this bill. I am a unit 09 state RN employee of HHSC. Beginning April 2011 staff @ Maui Memorial Medical Center were cautioned, counseled/written up for "facebook comments" made on a unit 09 facebook page created by one member <https://www.facebook.com/groups/122120594531793/> Individuals should set their facebook on private. Employers should not be able to require access for employment then make assumptions/come to a conclusion from comments found on social media. Freedom of speech and privacy.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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## har2-Vincent

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 13, 2013 11:52 PM  
**To:** JUDtestimony  
**Cc:** bonnyjean.manini@gmail.com  
**Subject:** \*Submitted testimony for HB713 on Feb 15, 2013 14:00PM\*

### **HB713**

Submitted on: 2/13/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bonnyjean Manini	Individual	Support	No

#### Comments:

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**har2-Vincent**

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**Sent:** Wednesday, February 13, 2013 3:06 PM  
**To:** JUDtestimony  
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**Subject:** \*Submitted testimony for HB713 on Feb 15, 2013 14:00PM\*

**HB713**

Submitted on: 2/13/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Chris Kimbrough	Individual	Support	No

Comments:

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**har2-Vincent**

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**Sent:** Wednesday, February 13, 2013 9:21 PM  
**To:** JUDtestimony  
**Cc:** pupata75@gmail.com  
**Subject:** Submitted testimony for HB713 on Feb 15, 2013 14:00PM

**HB713**

Submitted on: 2/13/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Cody Pata	Individual	Support	No

Comments: I am a resident of Hawai 'i and a registered voter. I support HB713 HD1. I believe that it is NOT acceptable for employers to require employees and applicants to disclose personal social media accounts and passwords. Such things are not public knowledge and to require disclosure is an invasion of privacy. Similar forms of privacy invasion are already deemed as illegal. I support that law enforcement agencies should retain the right to request access of their employees' and applicants' social media account and password information in the interest of public safety. Thank you for your time.

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## har2-Vincent

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 13, 2013 1:59 PM  
**To:** JUDtestimony  
**Cc:** murps123@gmail.com  
**Subject:** Submitted testimony for HB713 on Feb 15, 2013 14:00PM

**Categories:** Green Category

### **HB713**

Submitted on: 2/13/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Devin Madan	Individual	Support	No

Comments: i support the bill

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 13, 2013 2:32 PM  
**To:** JUDtestimony  
**Cc:** mauijanet@yahoo.com  
**Subject:** Submitted testimony for HB713 on Feb 15, 2013 14:00PM

**HB713**

Submitted on: 2/13/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Janet Burke	Individual	Support	No

Comments: Please pass this bill. Employers never had the right to look into personal communications of their applicants and they shouldn't now. Not including law enforcement or any position that typically calls for background checks and clearance.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 13, 2013 4:35 PM  
**To:** JUDtestimony  
**Cc:** jknatasha@aol.com  
**Subject:** \*Submitted testimony for HB713 on Feb 15, 2013 14:00PM\*

**HB713**

Submitted on: 2/13/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Janice Hill	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 13, 2013 9:33 PM  
**To:** JUDtestimony  
**Cc:** Kcamar@gmail.com  
**Subject:** \*Submitted testimony for HB713 on Feb 15, 2013 14:00PM\*

**HB713**

Submitted on: 2/13/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kala'e	Individual	Support	No

Comments:

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## har2-Vincent

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 13, 2013 1:26 PM  
**To:** JUDtestimony  
**Cc:** Karen@RedwoodGames.com  
**Subject:** Submitted testimony for HB713 on Feb 15, 2013 14:00PM

**Categories:** Green Category

### **HB713**

Submitted on: 2/13/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Karen Chun	Individual	Support	No

Comments: An employer asking for social media user names and passwords is exactly the same as asking for a person's private diary as a condition of employment and completely inappropriate - an invasion of privacy. The argument is made that it is on the internet and therefore freely available. This is not necessarily so. Many people set privacy so that no one but their family or perhaps a few close friends can see their account. They use services like Facebook to exchange deeply personal photos and information. Those people who do keep their social media accounts private should be protected from revealing personal information that could include anything from medical conditions to marital problems to sexual orientation or a million other things that could be used by an employer to discriminate against them. Please support this very good bill which is supported by the labor caucus of the Democratic Party.

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## har2-Vincent

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 13, 2013 9:07 PM  
**To:** JUDtestimony  
**Cc:** michelewhite@hawaii.rr.com  
**Subject:** Submitted testimony for HB713 on Feb 15, 2013 14:00PM

### **HB713**

Submitted on: 2/13/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michele Muir White	Individual	Support	No

Comments: This Bill seems like a "no brainer". What right should an employer have to access your Social Media accounts? Perhaps they should next be allowed to read all of our personal emails, read our texts and listen in on our telephone conversations.

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**har2-Vincent**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 13, 2013 10:43 PM  
**To:** JUDtestimony  
**Cc:** napuaamina@yahoo.com  
**Subject:** \*Submitted testimony for HB713 on Feb 15, 2013 14:00PM\*

**HB713**

Submitted on: 2/13/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
napua amina	Individual	Support	No

Comments:

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**har2-Vincent**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 13, 2013 3:12 PM  
**To:** JUDtestimony  
**Cc:** petertierney@hawaiiintel.net  
**Subject:** \*Submitted testimony for HB713 on Feb 15, 2013 14:00PM\*

**HB713**

Submitted on: 2/13/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
peter tierney	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 13, 2013 1:24 PM  
**To:** JUDtestimony  
**Cc:** pires9111@hawaii.rr.com  
**Subject:** Submitted testimony for HB713 on Feb 15, 2013 14:00PM

**Categories:** Green Category

**HB713**

Submitted on: 2/13/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
scott pires	Individual	Comments Only	No

Comments: please support this bill, I do not want paparozzi in the islands making it difficult for anyone. All entitled to privacy.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 13, 2013 2:01 PM  
**To:** JUDtestimony  
**Cc:** shannonkona@gmail.com  
**Subject:** \*Submitted testimony for HB713 on Feb 15, 2013 14:00PM\*

**HB713**

Submitted on: 2/13/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Shannon Rudolph	Individual	Support	No

Comments:

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## har2-Vincent

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 13, 2013 1:31 PM  
**To:** JUDtestimony  
**Cc:** stephen@shootingstarsphotography.com  
**Subject:** Submitted testimony for HB713 on Feb 15, 2013 14:00PM

**Categories:** Green Category

### **HB713**

Submitted on: 2/13/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Stephen Holding	Individual	Support	No

Comments: Testimony in regards to:HB713 HD1 I am supporting Mr. Ing's position on this matter. Any entry's or posts into any Social Media site (Facebook etc)should be treated the same as my personal journal or diary. It is private & not accessible to my employer or anyone else for that matter without my permission. Those same entry's may also be interpreted as, or represented as my own thoughts, fantasies or pipe dreams and any of those entry's may or may not be true or factual. With that in mind they should not be used by employers or even friends as "truth". Simply my digital mental meanderings. Certainly not foundations for employment.

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## har2-Vincent

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 13, 2013 7:33 PM  
**To:** JUDtestimony  
**Cc:** susanwyche@yahoo.com  
**Subject:** Submitted testimony for HB713 on Feb 15, 2013 14:00PM

### **HB713**

Submitted on: 2/13/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Susan Wyche	Individual	Support	No

Comments: I am a public employee and administrator and understand well the many restrictions on asking potential employees about their personal lives. I am shocked that employers--public or private--would be allowed to invade an individual's right to privacy by requesting access to someone's social media or online life. It obviously creates an unfair situation, should someone object, based on a right to privacy. Please pass this bill, providing legal guidance to employers who lack an ethical grounding in the separation between private life and employment.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 13, 2013 1:35 PM  
**To:** JUDtestimony  
**Cc:** terez\_lindsey@yahoo.com  
**Subject:** Submitted testimony for HB713 on Feb 15, 2013 14:00PM

**Categories:** Green Category

**HB713**

Submitted on: 2/13/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Terez Lindsey	Individual	Support	No

Comments: An employer requiring an employees social media passwords is on par with opening and reading their personal mail. It is an invasion of privacy. Please support this measure.

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## har2-Vincent

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 14, 2013 5:32 PM  
**To:** JUDtestimony  
**Cc:** Jhepa@hotmail.com  
**Subject:** Submitted testimony for HB713 on Feb 15, 2013 14:00PM

### **HB713**

Submitted on: 2/14/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jarin K. Lum-Hepa	Individual	Support	No

Comments: I, Jarin Kamalani Lum-Hepa on this day February 14, 2013 support HB713. I believe these measures will form privacy structure for "social" media users and media providers for years to come. I support Representative Kaniela Ing in his due diligent efforts to provide public safety with HB713.

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**har2-Vincent**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 15, 2013 7:52 AM  
**To:** JUDtestimony  
**Cc:** jadamesq@aol.com  
**Subject:** Submitted testimony for HB713 on Feb 15, 2013 14:00PM

**HB713**

Submitted on: 2/15/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jo-Ann M. Adams, Esq.	Individual	Support	No

Comments: Employees have a right to association. Employers should not be able to interfere with that right by accessing personal information. Work is work; social is social; personal is personal.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 14, 2013 8:19 PM  
**To:** JUDtestimony  
**Cc:** jonthebru@gmail.com  
**Subject:** Submitted testimony for HB713 on Feb 15, 2013 14:00PM

**HB713**

Submitted on: 2/14/2013

Testimony for JUD on Feb 15, 2013 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
John Bruce	Individual	Support	No

Comments: I support the passage of HB713. Our personal rights are being eroded by the possibility that statements and lifestyles shared online could be used by an employer or potential employer without any recourse of our own. Thank you for your affirmative vote on this bill. John Bruce

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