

Representative Karl Rhoads, Chair

Representative Joy A. San Buenaventura, Vice Chair

House Committee on Judiciary

Date: February 16, 2015

Subject: Support of House Bill 561, Personal Account; Privacy; Employment

Hello! My name is Marlowe Wilson, and I am currently a sophomore at Kalaheo high School on Oahu. I strongly support HB561 and would like to give reasons on why this bill should be put in place.

Social media is a very important part in the daily lives of a 21st century human. Now that it is becoming bigger, more private things are being stored on accounts, only being protected by a username and password. Some employers argue that getting access to personal accounts is needed to protect information such as company secrets, to deal with federal financial regulations, or prevent employers from being exposed to legal liabilities. However, others consider requiring access to personal accounts an invasion of employee privacy. Dave Maass, a spokesperson for the Electronic Frontier Foundation, describes the situation like ""When an employer asks for access to their social media, it's essentially the same as if an employer asked for full access to their house ... poking through their mail, looking in their drawers, sitting in on conversations at the dinner table." Being that social media is such a big part in our daily lives, employees should have the same rights of privacy online as they do offline.

Being a teenager who is about to start working, I would never want to give up such things like my account passwords and usernames. This is not because I post derogatory statuses or that I have anything to hide, it's just that it makes me uncomfortable when people have full access to every aspect of my life. I store personal information on websites, so if my employer had my account information they would also have access to it.

A great solution for the employees use of social media would be to have set guidelines. This would ensure that the workers not post anything inappropriate to hurt business, but at the same time protect the privacy of the employees. An example would be the popular shoe company Adidas. They have set guidelines protecting their company like how employees cannot post anything inappropriate or that contain profanity, but they monitor their employees from the outside NOT from logging onto their accounts using the passwords the workers were forced to give up. Adidas is just one of the many big companies that gives their employees privacy, but is still able to monitor and control the people in the work place. This just proves to show that employers do not have to have passwords and usernames from social media and that they can get their information other ways (without disturbing the privacy of their workers).

Thank you for your time and consideration, and I truly hope that you will support HB561.



HAWAII CIVIL RIGHTS COMMISSION

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February 24, 2015
Rm. 325, 2:00 p.m.

To: The Honorable Karl Rhoads, Chair
Members of the House Committee on Judiciary

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai'i Civil Rights Commission

Re: H.B. No. 561, H.D.1

The Hawai'i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai'i's laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The HCRC carries out the Hawai'i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

H.B. No. 561, H.D.1, if enacted, will prohibit employers from requiring or requesting employees and potential employees to grant access to personal account usernames and passwords.

Given the intent and purpose of H.B. No. 561, the protection of privacy interests of employees in their personal social media accounts, the exceptions provided in the new HRS §378-__(c) and (e), found on pages 3 and 4 of the bill, may be overly broad and should be narrowed to effect the protective purpose of the bill. While the exceptions can be narrowed, the H.D.1 makes it expressly clear that nothing in this bill diminishes the authority and obligation of employers to investigate complaints of sexual, racial, or other prohibited harassment in the workplace under HRS chapter 378, part I.

The HCRC supports the intent of H.B. No. 561, with the H.D.1 amendment that provides, in a new HRS subsection 378-__(g), that nothing in the new section shall diminish the authority and obligation of an employer to investigate complaints, allegation or the occurrence of prohibited harassment under chapter 378, part I.

The HCRC requests that this new protection be placed in a new part of chapter 378, rather than in part I of chapter 378, because the privacy rights protected by the new statute are different in kind from the protected bases (race, sex, ancestry, religion, sexual orientation, etc.) that fall under HCRC jurisdiction. Employment discrimination based on information obtained online (e.g., an applicant's or employee's race, ancestry, religion, familial status) is already prohibited under chapter 378, part I.



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the House Committee on Judiciary
Tuesday, February 24, 2015 at 2:00 P.M.
Conference Room 325, State Capitol**

RE: HOUSE BILL 561 HD1 RELATING TO SOCIAL MEDIA

Chair Rhoads, Vice Chair San Buenaventura, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") would like to **express concerns regarding** HB 561 HD1, which prohibits employers from requiring or requesting employees and potential employees to grant access to personal account usernames and passwords.

The Chamber is the largest business organization in Hawaii, representing about 1,000 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 members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

While we understand the reasoning behind the proposed bill, we have also seen instances where unnecessary laws create unintended consequences. The Chamber hasn't seen any empirical evidence that private employers routinely request access to applicant and employee personal social media.

There are legitimate exceptions at times to request and receive access to employees' personal social media pages. For example, law enforcement agencies have a public safety need to know who their representatives or potential employees are affiliating themselves with. And private companies may need to be able to investigate inter-office harassment claims that may stem from social media conversations. So, in terms of best practices, maybe a broad exception for workplace investigations to provide content in a personal account that is relevant to that investigation.

Thank you for the opportunity to testify.

LATE

	Organization	Testifier Position	Present at Hearing
Melvin Ah Ching	Individual	Support	No

Comments: An individual's PRIVACY should always be respected and not be subject to any breach if the owner of the social media or electronic mail account chooses not to share. As things already are with most social media platforms, many components are already public. Employers or anyone who wishes to see what a person posts in public are free to do so without the requirement to surrender account information. However those parts or the whole of a social media or email account that the user declares to be private should be respected as such and not be allowed to outside scrutiny by employers, potential employers or anyone else without the permission of the account holder. HB 561 should be amended to also include personal email accounts. People should never be allowed to have employers or potential employers require that their account passwords and access be divulged for employment purposes. I support HB 561. Aloha, MEL

LATE

To: Representative Karl Rhoads, Chair

Representative Joy A. San Buenaventura, Vice Chair

Members of the House Judiciary Committee

From: Sarah Benzing

Subject: Support of House Bill 561, Relating to Social Media

Aloha! My name is Sarah Benzing, and I am currently a sophomore at Kalaheo High School in Kailua. I strongly support House Bill 561 which would prohibit employers from requiring or requesting employees and potential employees to grant access to personal account usernames and passwords.

Social media is a very important part in the daily lives of a 21st century human. Now that social media sites have expanded, private information is more commonly being stored on accounts, only being protected by a username and password. Some employers argue that getting access to personal accounts is needed to protect information such as company secrets, to deal with federal financial regulations, or prevent employers from being exposed to legal liabilities. However, others consider requiring access to personal accounts an invasion of employee privacy. Dave Maass, a spokesperson for the Electronic Frontier Foundation, describes the situation like ““When an employer asks for access to their social media, it's essentially the same as if an employer asked for full access to their house ... poking through their mail, looking in their drawers, sitting in on conversations at the dinner table.” Being that social media is such a big part in our daily lives; employees should have the same rights of privacy online as they do offline.

As a teenager working for the state government system, I never would want to choose my privacy or my job. This is not because I post derogatory statuses or that I have anything to hide, it's just that it makes me uncomfortable when people have full access to every aspect of my day to day life.

Thank you for taking time to consider my argument. I hope you choose to support House Bill 561.