

STAND. COM. REP. NO.

1748

Honolulu, Hawaii

April 7, 2017

RE: S.B. No. 429
S.D. 2
H.D. 2

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 429, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE UNIFORM EMPLOYEE AND STUDENT ONLINE PRIVACY PROTECTION ACT,"

begs leave to report as follows:

The purpose of this measure is to adopt the uniform laws for the protection of the online accounts of employees and students from employers and educational institutions, respectively. This measure prevents employers and public and private educational institutions from obtaining access through coercion to non-public online information from employees and students, groups that typically have less than equal bargaining power.

The Hawaii Civil Rights Commission testified in support of this measure. The Commission to Promote Uniform Legislation, University of Hawaii, and American Civil Liberties Union of Hawaii provided comments.

Your Committee has amended this measure by replacing its contents with the language of H.B. 814 H.D. 2, which was heard by your Committee on February 28, 2017, and which is a similar measure that more closely aligns with the language and effect of

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the Uniform Law Commission's Uniform Employee and Student Online Privacy Protection Act. The amendment, among other things:

- (1) Limits the applicability of student protections to students in post-secondary education schools and deletes its application to students in primary and secondary school;
- (2) Extends the privacy protections of the measure to prospective employees, independent contractors, unpaid interns, and the parents or legal guardians of students under the age of majority;
- (3) Requires the employer or school to have specific facts about the protected account in order to seek access to the content for the limited regulatory and enforcement purposes that are authorized by this measure; and deletes the requirement that the employer or school be able to demonstrate prior knowledge of data or information with sufficient particularity of the content details and to distinguish the content from other data or information on the personal account to seek access for the limited purposes authorized by this measure;
- (4) Defines "protected personal online account" to exclude an account that the student or employee was notified would be subject to a request for login information or content, and for which login information was issued by the employer or educational institution under its domain name;
- (5) Permits the employer or educational institution to request, but not compel, the employee or student to disclose login information for a protected personal online account, disclose the content of the account, or to access or modify the settings of the account;
- (6) Specifies the civil penalty amounts chargeable to employers and institutions for violations;
- (7) Changes the effective date to July 1, 2050, to encourage further discussion; and



- (8) Makes technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 429, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 429, S.D. 2, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



SCOTT Y. NISHIMOTO, Chair



