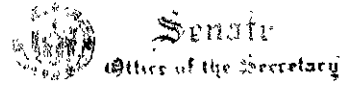


SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)



'15 APR 29 P2:17

SENATE
S. No. 2740

RECEIVED BY: Jc'

Introduced by Senator Miriam Defensor Santiago

AN ACT
PROTECTING THE RIGHT TO SOCIAL MEDIA PRIVACY IN EDUCATIONAL
INSTITUTIONS

EXPLANATORY NOTE

The Constitution, Article 3, Section 3 provides:

Section 3. (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise, as prescribed by law.

(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

This bill seeks to prohibit educational institutions from compelling students or applicants for admission to provide access to their personal social media accounts. The purpose of this prohibition is to defend the fundamental right to privacy of each person.

The times are rapidly changing. The venues by which the youth interact with others and with the world have migrated from the analog world to the vastly more complex and interconnected world of the internet. This migration has ballooned the opportunities for learning, knowledge exploration and acquisition, entertainment, and social networking. The internet is the playground of this generation's youth.

To systematically suppress the exploration of society's youth of their infinite playground would not only be backward, it would be useless. They will always find ways to fight repression, and any attempt will be met with rebellion. Constant monitoring, censorship and control are not the way forward. Instead, we must foster their exploration by teaching them the proper techniques, safeguards, and most importantly, the correct

values with respect to their usage of the internet, such that they may fully and safely abuse its potential.

The law, however, fails to adequately protect privacy in the digital realm, and even less so for the youth. The Supreme Court has had occasion to rule that students waive their right to privacy when they seek entry into the school.¹ In that case, the Court upheld the validity of mandatory, random, suspicionless drug testing for students. Imagine the chilling effect if an educational institution were to use this reasoning by analogy to justify mandatory, random, suspicionless searches of social media accounts for illicit activity. This bill seeks to prevent such wanton invasion of privacy.²


MIRIAM DEFENSOR SANTIAGO
7p

¹ Social Justice Society (SJS) v. Dangerous Drugs Board, 570 SCRA 410 (2008).

² This bill is substantially adopted from the Maine Legislature HP0838 LD 1194, otherwise known as “An Act To Protect Social Media Privacy in School and the Workplace”.

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Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

1 AN ACT
2 PROTECTING THE RIGHT TO SOCIAL MEDIA PRIVACY IN EDUCATIONAL
3 INSTITUTIONS

4 SECTION 1. *Short Title.* – This Act shall be known as the “Social Media Privacy
5 in Education Act”.

6 SECTION 2. *Definition of Terms.* – For the purpose of this Act, the term:

7 (1) “Social Media” means any electronic medium that allows users to
8 create, share and view user-generated content, including, but not limited
9 to, uploading or downloading videos, still photographs, blogs, video
10 blogs, podcasts, instant messages, electronic mail or Internet website
11 profiles or locations;

12 (2) “Educational Institution” means any public or private school offering
13 preparatory, primary, secondary, tertiary, technical or vocational
14 education. These include but are not limited to international schools,
15 laboratory high schools, and science high schools;

16 (3) “Applicant” means any person who has formally expressed an intention
17 to enrol in an educational institution;

1 (4) "Student" means any person enrolled in an educational institution.
2 Students include participants, trainees, apprentices and the like, whether
3 or not their tuition and other fees have been paid.

4 SECTION 3. *Prohibition.* – It shall be unlawful practice for an educational
5 institution, or its teachers, coaches, administrators, or other school employee or school
6 volunteer to:

7 (1) Require or request a student or applicant to disclose the username,
8 password or any other means for access, or provide access through a
9 username, password or any other means, to a social media account;

10 (2) Require a student or applicant, as a condition of acceptance or
11 participation in curricular or extracurricular activities, to add anyone,
12 including a teacher, coach, school administrator or other school
13 employee or school volunteer, to that student's or applicant's list of
14 contacts associated with a social media account, or require, cause, or
15 suggest to a student or applicant to change, the privacy settings
16 associated with a social media account;

17 (3) Compel a student or applicant to access a personal social media account
18 in the presence of anyone, including a coach, teacher, school
19 administrator or other school student or applicant or school volunteer, in
20 a manner that enables the such person to view the contents of the
21 personal social media account that are visible only when the personal
22 social media account is accessed by the account holder's username and
23 password, or other means of authentication;

1 (4) Take, or threaten to take, any action to expel, discipline or otherwise
2 penalize, or prohibit from participating in any curricular or extra-
3 curricular activity, a student for refusal to disclose any information
4 specified in Paragraph 1 of this Section, for refusal to add anyone to that
5 student's or applicant's list of contacts, for refusal to change the privacy
6 settings associated with a social media account or for refusal to access a
7 social media account in the presence of anyone as provided in Paragraph
8 3 of this Section;

9 (5) Fail or refuse to admit an applicant as a result of the applicant's refusal
10 to disclose any information specified in Paragraph 1, for refusal to add
11 anyone to that student's or applicant's list of contacts, for refusal to
12 change the privacy settings associated with a social media account or for
13 refusal to access a social media account in the presence of anyone as
14 provided in Paragraph 3 of this Section;

15 SECTION 4. *Penalty.* – A person who shall commit any of the prohibited acts
16 enumerated in the next preceding Section shall suffer the penalty of *arresto mayor* or a
17 fine ranging from ₱5,000 to ₱50,000 pesos, or both such fine and imprisonment.

18 SECTION 5. *Publicly Available Information.* – This Act does not apply to
19 information about a student or applicant that is publicly available.

20 SECTION 6. *Inadvertent Reception.* - If an educational institution inadvertently
21 receives the username, password or other means of authentication that provides access to
22 a personal social media account of a student or applicant through the use of an electronic
23 device or program that monitors usage of the educational institution's network or devices,
24 the educational institution is not liable for having the information but may not use the

1 information to access the personal social media account of the student or applicant, and
2 must dispose of the information immediately. The educational institution must take steps
3 to ensure that such inadvertent reception shall not happen again.

4 SECTION 7. *Separability Clause.* – If any provision or part hereof, is held invalid
5 or unconstitutional, the remainder of the law or the provision not otherwise affected shall
6 remain valid and subsisting.

7 SECTION 8. *Repealing Clause.* – Any law, presidential decree or issuance,
8 executive order, letter of instruction, administrative order, rule or regulation contrary to
9 or is inconsistent with the provision of this Act is hereby repealed, modified, or amended
10 accordingly.

11 SECTION 9. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after
12 its publication in at least two (2) newspapers of general circulation.

Approved,

/aml 24april2015