
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1130 Session of
2013

INTRODUCED BY WHITE, SCHLOSSBERG, K. BOYLE, O'BRIEN, BROWNLEE,
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MOLCHANY, FREEMAN, GOODMAN, DAVIDSON, SABATINA AND QUINN,
APRIL 8, 2013

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, APRIL 8, 2013

AN ACT

1 Providing for social media protection in employment and relating
2 to certain educational institutions; establishing a cause of
3 action; and prescribing penalties.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Social Media
8 Privacy Protection Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Educational institution." A public or private educational
14 institution that offers students an organized course of study or
15 training that is academic, technical, trade-oriented or
16 preparatory for gainful employment in a recognized occupation.

17 "Employer." A person, including a State or local government

1 entity, engaged in a business, an industry, a profession, a
2 trade or other enterprise in this Commonwealth or a unit of
3 State or local government. The term includes an agent, a
4 representative or a designee of such person.

5 "Personal electronic account." An account created through an
6 electronic medium or a service that allows users to create,
7 edit, store, share or view user-generated content, including
8 videos or photographs, blogs, video blogs, podcasts, messages,
9 electronic mail, profiles, locations or any other information or
10 data.

11 "Social media." The term includes, but is not limited to,
12 social networking Internet websites and any other forms of media
13 or services that involve any means of creating, sharing and
14 viewing user-generated information through a personal electronic
15 account or Internet website.

16 Section 3. Social media privacy protection in employment.

17 (a) General rule.--An employer may not:

18 (1) Request or require an employee or prospective
19 employee to disclose any user name, password or other means
20 for accessing private or personal social media.

21 (2) Request or require an employee or prospective
22 employee to access private or personal social media in the
23 presence of the employer.

24 (3) Request or require an employee or prospective
25 employee to divulge information contained on private or
26 personal social media, except as provided under subsection

27 (b).

28 (4) Discharge, discipline or otherwise penalize or
29 threaten to discharge, discipline or otherwise penalize an
30 employee for the employee's refusal to disclose any

1 information specified under this subsection.

2 (5) Fail or refuse to hire any prospective employee as a
3 result of the individual's refusal to disclose any
4 information specified under this subsection.

5 (b) Exceptions.--Nothing in subsection (a) shall be
6 construed to prohibit an employer from:

7 (1) Promulgating and maintaining workplace policies
8 governing the use of the employer's electronic communication
9 devices. This includes policies regarding an employee's use
10 of the Internet, social media accounts, services or Internet
11 websites and e-mail use pertaining to the employer.

12 (2) Monitoring the usage of the employer's electronic
13 communication devices and nonpersonal accounts or services
14 that provide access to the employer's internal computer or
15 information systems so long as the employer is in compliance
16 with subsection (a).

17 (3) Obtaining or viewing any information concerning an
18 employee or prospective employee that exists within the
19 public domain.

20 Section 4. Social media privacy protection in educational
21 institutions.

22 (a) General rule.--An educational institution may not:

23 (1) Request or require a student or prospective student
24 to disclose any user name, account name, password or other
25 means for accessing private or personal social media.

26 (2) Request or require a student or prospective student
27 to access private or personal social media in the presence of
28 an employee or agent of the educational institution.

29 (3) Request or require a student or prospective student
30 to divulge information contained in private or personal

1 social media, except as provided under subsection (b).

2 (4) Expel, discipline, fail to admit or otherwise
3 penalize a student or prospective student for failure to
4 grant access to, allow observation of or disclose information
5 that allows access to or observation of the student's or
6 prospective student's private and personal social media.

7 (b) Exceptions.--Nothing in subsection (a) shall be
8 construed to prohibit an educational institution from:

9 (1) Requesting or requiring a student to disclose any
10 user name, password or other means for accessing an
11 electronic communications device provided and owned by the
12 educational institution.

13 (2) Monitoring an account or service provided and owned
14 by the educational institution.

15 (3) Viewing, accessing or utilizing information about a
16 student or prospective student that can be obtained without
17 any required access information or that is available in the
18 public domain.

19 Section 5. Cause of action.

20 An individual who is the subject of a violation of this act
21 may bring a civil action in a court of competent jurisdiction
22 against an employer or educational institution within three
23 years from the date upon which the violation occurs.

24 Section 6. Penalties.

25 An employer or educational institution found by a court of
26 competent jurisdiction to have violated a provision of this act
27 commits a misdemeanor and shall, upon conviction, be sentenced
28 to pay a fine of not more than \$5,000 per violation, reasonable
29 attorney fees and court costs. The court may order an employer
30 or educational institution to pay damages to the aggrieved

1 individual in an amount not to exceed \$1,000 per violation as
2 well as to take reasonable corrective actions.

3 Section 7. Protection of employees.

4 (a) General rule.--It shall be unlawful for an employer to
5 discharge, threaten or otherwise discriminate or retaliate
6 against an employee regarding the employee's compensation,
7 terms, conditions, location or privileges of employment because:

8 (1) The employee or any person acting on behalf of the
9 employee makes a good faith report, verbally or in writing,
10 of an alleged violation of this act.

11 (2) The employee is requested to participate in a legal
12 action, investigation, hearing or inquiry relating to an
13 alleged violation of this act.

14 (b) Scope of protection.--Any person who in good faith
15 alleges noncompliance with this act shall be afforded the rights
16 provided by this act, notwithstanding the person's failure to
17 prevail on the merits.

18 (c) Rebuttable presumption.--Taking adverse action against
19 an employee within 180 days of the person's exercise of rights
20 protected under this act shall raise a rebuttable presumption of
21 having done so in retaliation for the exercise of those rights.

22 Section 8. Effective date.

23 This act shall take effect in 60 days.