

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Right to Privacy in the Workplace Act is
5 amended by changing Section 10 as follows:

6 (820 ILCS 55/10) (from Ch. 48, par. 2860)

7 Sec. 10. Prohibited inquiries.

8 (a) It shall be unlawful for any employer to inquire, in a
9 written application or in any other manner, of any prospective
10 employee or of the prospective employee's previous employers,
11 whether that prospective employee has ever filed a claim for
12 benefits under the Workers' Compensation Act or Workers'
13 Occupational Diseases Act or received benefits under these
14 Acts.

15 (b) (1) It shall be unlawful for any employer to request or
16 require any employee or prospective employee to provide any
17 user name and password, password, or other means of
18 authentication ~~related account information in order~~ to gain
19 access to the ~~employee's or prospective employee's account or~~
20 ~~profile on a social networking website or to demand access in~~
21 ~~any manner to an~~ employee's or prospective employee's personal
22 internet account ~~or profile on a social networking website.~~

23 (2) An employer may request or require an employee to

1 disclose any user name and password, password, or other means
2 of authentication for accessing any accounts or services
3 provided by the employer or by virtue of the employee's
4 employment relationship with the employer or that the employee
5 uses for business purposes.

6 (3) An employer may not:

7 (A) discharge, discipline, or otherwise penalize or
8 threaten to discharge, discipline, or otherwise penalize
9 an employee for an employee's refusal to disclose any
10 information specified in paragraph (1) of this subsection
11 (b);

12 (B) fail or refuse to hire any prospective employee as
13 a result of the prospective employee's refusal to disclose
14 any information specified in paragraph (1) of this
15 subsection (b); or

16 (C) be held liable for failing to request or require
17 that an employee or prospective employee disclose any
18 information specified in paragraph (1) of this subsection
19 (b).

20 (4) Nothing in this subsection shall prevent an employer
21 from conducting an investigation:

22 (A) for the purpose of ensuring or investigating past
23 compliance with applicable laws, regulatory requirements,
24 or prohibitions against work-related employee misconduct
25 if the employer has specific information about activity in
26 a personal internet account by an employee or other source;

1 (B) for the purpose of investigating violations of
2 applicable laws, regulatory requirements, or prohibitions
3 against work-related employee misconduct if the employer
4 has specific information about activity in a personal
5 internet account by an employee;

6 (C) for the purpose of protecting the security or
7 integrity of the employer's computers, devices, networks,
8 or data if the employer has specific information about
9 activity in or through the personal internet account of an
10 employee that has compromised or may compromise the
11 security or integrity of the employer's computers,
12 devices, networks, or data; or

13 (D) if the employer has specific information about the
14 unauthorized transfer of an employer's proprietary
15 information, confidential information, or financial data
16 to a personal internet account of an employee or someone
17 acting in concert with an employee.

18 Conducting an investigation as specified in subparagraphs
19 (A), (B), (C), and (D) of this paragraph (4) may include
20 requiring the employee's cooperation to share information
21 relevant to making a factual determination concerning the
22 matter being investigated including, if relevant, access and
23 information pertaining to the employee's personal internet
24 accounts.

25 (5) ~~(2)~~ Nothing in this subsection shall limit an
26 employer's right to:

1 (A) promulgate and maintain lawful workplace policies
2 governing the use of the employer's electronic equipment,
3 including policies regarding Internet use, social
4 networking site use, and electronic mail use; ~~and~~

5 (B) monitor, or require an employee's consent to
6 monitor, usage of the employer's computers, devices,
7 network, or data; provided, however, that while engaging in
8 such monitoring, an employer may not request or require any
9 employee or prospective employee to access the employee's
10 or prospective employee's personal internet account for
11 purposes of enabling the employer to observe activity in or
12 the contents of such an account; and provided further that
13 an employer undertaking such monitoring may not request or
14 require electronic equipment and the employer's electronic
15 mail without requesting or requiring any employee or
16 prospective employee to provide any user name and password,
17 password, or other means of authentication related account
18 information in order to gain access to the employee's or
19 prospective employee's personal internet account; and ~~or~~
20 profile on a social networking website.

21 (C) take such actions as may be necessary to comply
22 with the requirements of State or Federal statutes, rules
23 or regulations, case law, or rules of self-regulatory
24 organizations.

25 (6) ~~(3)~~ Nothing in this subsection shall prohibit an
26 employer from obtaining about a prospective employee or an

1 employee information that is in the public domain or that is
2 otherwise obtained in compliance with this amendatory Act of
3 the 97th General Assembly.

4 (7) ~~(4)~~ For the purposes of this subsection:

5 (A) "Prospective employee" means an applicant for
6 employment.

7 (B) "Employer" means a person engaged in a business,
8 industry, profession, trade, or other enterprise in this
9 State, or any unit of State or local government. "Employer"
10 includes any agent, representative, or designee of the
11 employer.

12 (C) "Personal internet account" means an account
13 created via bounded system established by an
14 internet-based service that requires a user to input or
15 store access information via an electronic device to view,
16 create, utilize, or edit the user's account information,
17 profile, display, communications, or stored data.
18 "Personal internet account" does not include an account
19 provided by the employer, obtained by virtue of the
20 employee's employment relationship with the employer, or
21 used for the employer's business purposes.

22 ~~"social networking website" means an Internet based~~
23 ~~service that allows individuals to:~~

24 ~~(A) construct a public or semi-public profile within a~~
25 ~~bounded system, created by the service;~~

26 ~~(B) create a list of other users with whom they share a~~

1 ~~connection within the system; and~~
2 ~~(C) view and navigate their list of connections and~~
3 ~~those made by others within the system.~~
4 ~~"Social networking website" shall not include electronic~~
5 ~~mail.~~

6 (Source: P.A. 97-875, eff. 1-1-13.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.