



Rep. Jim Durkin

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LRB098 04224 JLS 41247 a

1 AMENDMENT TO HOUSE BILL 1047

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1047 by replacing  
3 everything after the enacting clause with the following:

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

1 user name and password, password, or other means of  
2 authentication ~~related account information in order~~ to gain  
3 access to the ~~employee's or prospective employee's account or~~  
4 ~~profile on a social networking website or to demand access in~~  
5 ~~any manner to an~~ employee's or prospective employee's personal  
6 online account ~~or profile on a social networking website.~~

7 (2) An employer may request or require an employee to  
8 disclose any user name and password, password, or other means  
9 of authentication for accessing:

10 (A) any electronic communications device supplied or  
11 paid for in whole or in part by the employer; or

12 (B) any accounts or services provided by the employer  
13 or by virtue of the employee's employment relationship with  
14 the employer or that the employee uses for business  
15 purposes.

16 (3) An employer may not:

17 (A) discharge, discipline, or otherwise penalize or  
18 threaten to discharge, discipline, or otherwise penalize  
19 an employee solely for an employee's refusal to disclose  
20 any information specified in paragraph (1) of this  
21 subsection (b);

22 (B) fail or refuse to hire any prospective employee as  
23 a result of the prospective employee's refusal to disclose  
24 any information specified in paragraph (1) of this  
25 subsection (b); or

26 (C) be held liable for failure to request or require

1 that an employee or prospective employee disclose any  
2 information specified in paragraph (1) of this subsection  
3 (b).

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

6 (A) for the purpose of ensuring compliance with  
7 applicable laws, regulatory requirements, or prohibitions  
8 against work-related employee misconduct based on the  
9 employer's receipt of specific information about activity  
10 on a personal online account by an employee or other  
11 source;

12 (B) for the purpose of investigating violations of  
13 applicable laws, regulatory requirements, or prohibitions  
14 against work-related employee misconduct based on the  
15 employer's receipt of specific information about activity  
16 on a personal online account by an employee or other  
17 source;

18 (C) for the purpose of protecting the security of the  
19 employer's computers, networks, or system based on the  
20 employer's receipt of specific information about activity  
21 on a personal online account by an employer or other  
22 source; or

23 (D) of an employee's actions based on the receipt of  
24 specific information about the unauthorized transfer of an  
25 employer's proprietary information, confidential  
26 information, or financial data to a personal online account

1 by an employee or other source.

2 Conducting an investigation as specified in subparagraphs  
3 (A), (B), (C), and (D) of this paragraph (4) includes requiring  
4 the employee's cooperation to share information that is  
5 relevant to making a factual determination concerning the  
6 matter that has been reported.

7 (5) ~~(2)~~ Nothing in this subsection shall limit an  
8 employer's right to:

9 (A) promulgate and maintain lawful workplace policies  
10 governing the use of the employer's electronic equipment,  
11 including policies regarding Internet use, social  
12 networking site use, and electronic mail use; ~~and~~

13 (B) monitor usage of the employer's electronic  
14 equipment and the employer's electronic mail without  
15 requesting or requiring any employee or prospective  
16 employee to provide any user name and password, password,  
17 or other means of authentication ~~related account~~  
18 ~~information in order~~ to gain access to the employee's or  
19 prospective employee's personal online account; and ~~or~~  
20 ~~profile on a social networking website.~~

21 (C) comply with the requirements of State or Federal  
22 statutes, rules or regulations, case law, or rules of  
23 self-regulatory organizations.

24 (6) ~~(3)~~ Nothing in this subsection shall prohibit an  
25 employer from obtaining about a prospective employee or an  
26 employee information that is in the public domain or that is

1 otherwise obtained in compliance with this amendatory Act of  
2 the 97th General Assembly.

3 (7) ~~(4)~~ For the purposes of this subsection: ~~7~~

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

6 (B) "Electronic communications device" means any  
7 device that uses electronic signals to create, transmit,  
8 and receive information, including, without limitation, a  
9 computer, telephone, or personal digital assistant.

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

15 (D) "Personal online account" means an account created  
16 via bounded system established by an internet-based  
17 service that requires a user to input or store access  
18 information via an electronic device to view, create,  
19 utilize, or edit the user's account information, profile,  
20 display, communications, or stored data.

21 (E) "Network" means a set of related, remotely  
22 connected devices and facilities, including more than one  
23 system, with the capability to transmit data among any of  
24 the devices and facilities. The term includes, without  
25 limitation, a local, regional, or global computer network.

26 (F) "System" means a set of related equipment, whether

1 or not connected, that is used with or for a computer.

2 ~~"social networking website" means an Internet-based~~  
3 ~~service that allows individuals to:~~

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

6 ~~(B) create a list of other users with whom they share a~~  
7 ~~connection within the system; and~~

8 ~~(C) view and navigate their list of connections and~~  
9 ~~those made by others within the system.~~

10 ~~"Social networking website" shall not include electronic~~  
11 ~~mail.~~

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

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law."