



Rep. Jim Durkin

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LRB098 04224 JLS 44147 a

1 AMENDMENT TO HOUSE BILL 1047

2 AMENDMENT NO. _____. Amend House Bill 1047, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

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

7 (820 ILCS 55/10) (from Ch. 48, par. 2860)

8 Sec. 10. Prohibited inquiries.

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

16 (b) (1) It shall be unlawful for any employer to request or

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

8 (2) An employer may request or require an employee to
9 disclose any user name and password, password, or other means
10 of authentication for accessing any accounts or services
11 provided by the employer or by virtue of the employee's
12 employment relationship with the employer or that the employee
13 uses for business purposes.

14 (3) An employer may not:

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

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

24 (C) be held liable for failing to request or require
25 that an employee or prospective employee disclose any
26 information specified in paragraph (1) of this subsection

1 (b).

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

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

9 (B) for the purpose of investigating violations of
10 applicable laws, regulatory requirements, or prohibitions
11 against work-related employee misconduct if the employer
12 has specific information about activity in a personal
13 internet account by an employee;

14 (C) for the purpose of protecting the security or
15 integrity of the employer's computers, devices, networks,
16 or data if the employer has specific information about
17 activity in or through the personal internet account of an
18 employee that has compromised or may compromise the
19 security or integrity of the employer's computers,
20 devices, networks, or data; or

21 (D) if the employer has specific information about the
22 unauthorized transfer of an employer's proprietary
23 information, confidential information, or financial data
24 to a personal internet account of an employee or someone
25 acting in concert with an employee.

26 Conducting an investigation as specified in subparagraphs

1 (A), (B), (C), and (D) of this paragraph (4) may include
2 requiring the employee's cooperation to share information
3 relevant to making a factual determination concerning the
4 matter being investigated including, if relevant, access and
5 information pertaining to the employee's personal internet
6 accounts.

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, or require an employee's consent to
14 monitor, usage of the employer's computers, devices,
15 network, or data; provided, however, that while engaging in
16 such monitoring, an employer may not request or require any
17 employee or prospective employee to access the employee's
18 or prospective employee's personal internet account for
19 purposes of enabling the employer to observe activity in or
20 the contents of such an account; and provided further that
21 an employer undertaking such monitoring may not request or
22 require electronic equipment and the employer's electronic
23 mail without requesting or requiring any employee or
24 prospective employee to provide any user name and password,
25 password, or other means of authentication related account
26 information in order to gain access to the employee's or

1 prospective employee's personal internet account; and ~~or~~
2 ~~profile on a social networking website.~~

3 (C) take such actions as may be necessary to comply
4 with the requirements of State or Federal statutes, rules
5 or regulations, case law, or rules of self-regulatory
6 organizations.

7 (6) ~~(3)~~ Nothing in this subsection shall prohibit an
8 employer from obtaining about a prospective employee or an
9 employee information that is in the public domain or that is
10 otherwise obtained in compliance with this amendatory Act of
11 the 97th General Assembly.

12 (7) ~~(4)~~ For the purposes of this subsection: 7

13 (A) "Prospective employee" means an applicant for
14 employment.

15 (B) "Employer" means a person engaged in a business,
16 industry, profession, trade, or other enterprise in this
17 State, or any unit of State or local government. "Employer"
18 includes any agent, representative, or designee of the
19 employer.

20 (C) "Personal internet account" means an account
21 created via bounded system established by an
22 internet-based service that requires a user to input or
23 store access information via an electronic device to view,
24 create, utilize, or edit the user's account information,
25 profile, display, communications, or stored data.
26 "Personal internet account" does not include an account

1 provided by the employer, obtained by virtue of the
2 employee's employment relationship with the employer, or
3 used for the employer's business purposes.

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

6 ~~(A) construct a public or semi public profile within a~~
7 ~~bounded system, created by the service;~~

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

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

12 ~~"Social networking website" shall not include electronic~~
13 ~~mail.~~

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

15 Section 99. Effective date. This Act takes effect upon
16 becoming law."