



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4999

by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

820 ILCS 55/10

from Ch. 48, par. 2860

Amends the Right to Privacy in the Workplace Act. Makes it unlawful for an employer or prospective employer to request or require an employee or applicant to authenticate or access a personal online account in the presence of the employer, to request or require that an employee or applicant invite the employer to join a group affiliated with any personal online account of the employee or applicant, or join an online account established by the employer. Prohibits retaliation against an employee or applicant. Defines terms.

LRB099 17796 JLS 42158 b

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; online activities.

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) Except as provided in this subsection, it shall be
16 unlawful for any employer to request or require any employee or
17 prospective employee to provide a user name and password or any
18 password or other 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 account
22 or profile on a social networking website.

23 (2) Nothing in this subsection shall limit an employer's

1 right to:

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

6 (B) monitor usage of the employer's electronic
7 equipment and the employer's electronic mail without
8 requesting or requiring any employee or prospective
9 employee to provide any password or other related account
10 information in order to gain access to the employee's or
11 prospective employee's account or profile on a social
12 networking website.

13 (3) Nothing in this subsection shall prohibit an employer
14 from obtaining about a prospective employee or an employee
15 information that is in the public domain or that is otherwise
16 obtained in compliance with this amendatory Act of the 97th
17 General Assembly.

18 (3.5) Provided that the password, account information, or
19 access sought by the employer relates to a professional
20 account, and not a personal account, nothing in this subsection
21 shall prohibit or restrict an employer from complying with a
22 duty to screen employees or applicants prior to hiring or to
23 monitor or retain employee communications as required under
24 Illinois insurance laws or federal law or by a self-regulatory
25 organization as defined in Section 3(A)(26) of the Securities
26 Exchange Act of 1934, 15 U.S.C. 78(A)(26).

1 (4) For the purposes of this subsection, "social networking
2 website" means an Internet-based service that allows
3 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 For the purposes of paragraph (3.5) of this subsection,
13 "professional account" means an account, service, or profile
14 created, maintained, used, or accessed by a current or
15 prospective employee for business purposes of the employer.

16 For the purposes of paragraph (3.5) of this subsection,
17 "personal account" means an account, service, or profile on a
18 social networking website that is used by a current or
19 prospective employee exclusively for personal communications
20 unrelated to any business purposes of the employer.

21 (c) It is unlawful for an employer to request or require an
22 employee or applicant to authenticate or access a personal
23 online account in the presence of the employer.

24 It is unlawful for an employer to request or require that
25 an employee or applicant invite the employer to join a group
26 affiliated with any personal online account of the employee or

1 applicant.

2 It is unlawful for an employer to request or require that
3 an employee or applicant join an online account established by
4 the employer.

5 It is unlawful for an employer to discharge, discipline,
6 discriminate against, retaliate against, or otherwise penalize
7 an employee who (A) refuses or declines to provide the employer
8 with a user name and password, password, or any other
9 authentication means for accessing his or her personal online
10 account, (B) refuses or declines to authenticate or access a
11 personal online account in the presence of the employer, (C)
12 refuses to invite the employer to join a group affiliated with
13 any personal online account of the employee, (D) refuses to
14 join an online account established by the employs, or (E) files
15 or causes to be filed any complaint, whether orally or in
16 writing, with a public or private body or court concerning the
17 employer's violation of this subsection.

18 It is unlawful for an employer to fail or refuse to hire an
19 applicant as a result of his or her refusal to (A) provide the
20 employer with a user name and password, password, or any other
21 authentication means for accessing a personal online account,
22 (B) authenticate or access a personal online account in the
23 presence of the employer, or (C) invite the employer to join a
24 group affiliated with a personal online account of the
25 applicant.

26 As used in this subsection, "personal online account" means

1 an online account that is used by a person exclusively for
2 personal purposes and unrelated to any business purpose of the
3 person's employer or prospective employer, including
4 electronic mail, social media, and retail-based Internet web
5 sites. "Personal online account" does not include an account
6 created, maintained, used, or accessed by a person for a
7 business purpose of the person's employer or prospective
8 employer.

9 (Source: P.A. 97-875, eff. 1-1-13; 98-501, eff. 1-1-14.)