

1 S.7

2 Introduced by Senator Sears

3 Referred to Committee on Economic Development, Housing and General

4 Affairs

5 Date: January 11, 2013

6 Subject: Labor; employment practices; social media privacy

7 Statement of purpose: This bill proposes to prohibit employers from requiring
8 an employee to disclose the means of access to a personal electronic account or
9 service, or requiring an employee to allow the employer access to the
10 employee's social networking profile.

11 An act relating to social networking privacy protection

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 ~~Sec. 1. 21 V.S.A. § 495j is added to read:~~

14 ~~§ 495j. PRIVACY PROTECTION; SOCIAL NETWORKING SERVICES~~

15 ~~(a) For purposes of this section:~~

16 ~~(1) "Electronic communications device" means any device that uses~~
17 ~~electronic signals to create, transmit, and receive information, and includes~~
18 ~~computers, telephones, personal digital assistants, and other similar devices.~~

19 ~~(2) "Retaliatory action" means discharge, threat, suspension, demotion,~~
20 ~~denial of promotion, discrimination, or other adverse employment action.~~

1 ~~regarding the employee's compensation, terms, conditions, location, or~~
2 ~~privileges of employment.~~

3 (3) "Social networking service" means an online service, platform,
4 or website that enables an individual to establish a profile within a bounded
5 system created by the service for the purpose of sharing information with other
6 users of the service.

7 (b) An employer shall not:

8 (1) request or require that an employee or applicant disclose any user
9 name, password, or other means for accessing a personal account or service
10 through an electronic communications device;

11 (2) request or require that an employee or applicant take an action that
12 permits the employer to gain access to the employee's or applicant's account
13 or profile on a social networking service if that information is not available to
14 the general public;

15 (3) take retaliatory action against an employee for an employee's refusal
16 to disclose any information specified in subdivision (1) or (2) of this
17 subsection; or

18 (4) fail or refuse to hire any applicant as a result of the applicant's
19 refusal to disclose any information specified in subdivision (1) or (2) of this
20 subsection.

1 ~~(c) An employer may require an employee to disclose any user name,~~
2 ~~password, or other means for accessing nonpersonal accounts or services that~~
3 ~~provide access to the employer's internal computer or information systems.~~

4 Sec. 2. VERMONT DEPARTMENT OF LABOR

5 The Vermont Department of Labor shall take appropriate steps to inform
6 employers of this act.

7 Sec. 3. EFFECTIVE DATE

8 ~~This act shall take effect on July 1, 2013.~~

*Sec. 1. SOCIAL NETWORKING PRIVACY PROTECTION STUDY
COMMITTEE*

~~(a) A Committee is established to study the issue of prohibiting employers
from requiring employees or applicants for employment to disclose a means of
accessing the employee's or applicant's social network account.~~

*(a) A Committee is established to study how to create statutory language
to prohibit employers from requiring employees or applicants for employment
to disclose a means of accessing the employee's or applicant's social network
account.*

(b) The Committee shall examine:

*(1) existing social networking privacy laws and proposed legislation in
other states;*

*(2) the interplay between state law and existing or proposed federal law
on the subject of social networking privacy and employment; and*

*(3) any other issues relevant to social networking privacy or
employment.*

*(c) The Committee shall make recommendations, including proposed
legislation.*

(d) The Committee shall consist of the following members:

*(1) two representatives of employers, one appointed by the Speaker of
the House and one by the Committee on Committees;*

(2) two representatives from labor organizations, one appointed by the Speaker and one by the Committee on Committees;

(3) the Attorney General or designee;

(4) the Commissioner of Labor or designee;

(5) the Commissioner of Financial Regulation or designee;

(6) the Commissioner of Human Resources or designee;

(7) the Commissioner of Public Safety or designee;

(8) the Executive Director of the Human Rights Commission or designee; and

(9) a representative of the American Civil Liberties Union of Vermont.

(e) The Committee shall convene its first meeting on or before September 1, 2013. The Commissioner of Labor or designee shall be designated Chair of the Committee and shall convene the first and subsequent meetings.

(f) The Committee shall report its findings and recommendations on or before January 15, 2014 to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs.

(g) The Committee shall cease to function upon transmitting its report.

Sec. 2. 21 V.S.A. § 495j is added to read:

§ 495j. PRIVACY PROTECTION

An employer shall not require or request that an applicant for employment disclose a means for accessing the applicant's personal computer, e-mail account, or telephone.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.