

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred House Bill No. 462 entitled “An act relating to social media privacy
4 for employees” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 21 V.S.A. § 495k is added to read:

8 § 495k. SOCIAL MEDIA ACCOUNT PRIVACY; PROHIBITIONS

9 (a) As used in this section:

10 (1) “Social media account” means an account with an electronic
11 medium or service through which users create, share, and interact with content,
12 including videos, still photographs, blogs, video blogs, podcasts, instant or text
13 messages, e-mail, online services or accounts, or Internet website profiles or
14 locations. “Social media account” does not include an account provided by an
15 employer or intended to be used primarily on behalf of an employer.

16 (2) “Specifically identified content” means data, information, or other
17 content stored in a social media account that is identified with sufficient
18 particularity to distinguish the discrete, individual piece of content being
19 sought from any other data, information, or content stored in the account.

20 “Specifically identified content” shall not include a username, password, or

1 other means of authentication for the purpose of accessing an employee's or
2 applicant's social media account.

3 (b) An employer shall not require, request, or coerce an employee or
4 applicant to do any of the following:

5 (1) disclose a username or password or other means of authentication
6 for the purpose of accessing the employee's or applicant's social media
7 account;

8 (2) access a social media account in the presence of the employer;

9 (3) divulge or present any content from the employee's or applicant's
10 social media account;

11 (4) provide password or authentication information to a personal
12 technological device for purposes of gaining access to an employee's or
13 applicant's social media account or to turn over an unlocked personal
14 electronic device for purposes of gaining access to an employee's or
15 applicant's social media account; or

16 (5) change the account or privacy settings of the employee's or
17 applicant's social media account to increase third-party access to its contents.

18 (c) An employer shall not require or coerce an employee or applicant to add
19 anyone, including the employer, to their list of contacts associated with a social
20 media account.

1 (d) No agreement by an employee to waive his or her rights under this
2 section shall be valid.

3 (e)(1) Nothing in this section shall preclude an employer from requesting
4 an employee to share specifically identified content for the purpose of:

5 (A) complying with the employer’s legal and regulatory obligations;

6 (B) investigating an allegation of the unauthorized transfer or
7 disclosure of an employer’s proprietary or confidential information or financial
8 data through an employee’s or an applicant’s social media account; or

9 (C) investigating an allegation, based on the receipt of information
10 regarding specifically identified content, of unlawful harassment, threats of
11 violence in the workplace, discriminatory or disparaging content concerning
12 another employee, or **disparaging content concerning the employer.**

13 (2) This section does not prohibit or restrict a law enforcement agency,
14 **as defined in 15 V.S.A. § 1151(5),** from complying with a duty to screen
15 employees or applicants before hiring or to monitor or retain employee social
16 media account information or content during the hiring process for a law
17 enforcement officer.

18 (f) Nothing in this section shall preclude an employer from requesting a
19 username or password that is necessary to access an employer-issued
20 electronic device.

