

6938

I N S E N A T E

April 13, 2012

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to protecting the privacy of employees' and prospective employees' social media accounts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The labor law is amended by adding a new section 215-d to
2 read as follows:
3 S 215-D. INVASION OF PRIVACY BY AN EMPLOYER AGAINST AN EMPLOYEE OR
4 PROSPECTIVE EMPLOYEE. 1. DEFINITIONS. FOR PURPOSES OF THIS SECTION:
5 (A) "APPLICANT" MEANS AN APPLICANT FOR EMPLOYMENT;
6 (B) "ELECTRONIC COMMUNICATIONS DEVICE" MEANS ANY DEVICE THAT USES
7 ELECTRONIC SIGNALS TO CREATE, TRANSMIT, AND RECEIVE INFORMATION; AND
8 (C) "ELECTRONIC COMMUNICATIONS DEVICE" INCLUDES, BUT IS NOT LIMITED
9 TO, COMPUTERS, TELEPHONES, PERSONAL DIGITAL ASSISTANTS, AND OTHER SIMI-
10 LAR DEVICES.
11 2. (A) AN EMPLOYER OR EMPLOYER'S AGENT, REPRESENTATIVE, OR DESIGNEE
12 SHALL NOT REQUIRE ANY EMPLOYEE OR APPLICANT TO DISCLOSE ANY LOG-IN NAME,
13 PASSWORD, OR OTHER MEANS FOR ACCESSING A PERSONAL ACCOUNT OR SERVICE
14 THROUGH AN ELECTRONIC COMMUNICATIONS DEVICE.
15 (B) AN EMPLOYER OR EMPLOYER'S AGENT, REPRESENTATIVE, OR DESIGNEE MAY
16 REQUIRE AN EMPLOYEE TO DISCLOSE ANY LOG-IN NAME, PASSWORD, OR OTHER
17 MEANS FOR ACCESSING NON-PERSONAL ACCOUNTS OR SERVICES THAT PROVIDE
18 ACCESS TO THE EMPLOYER'S INTERNAL COMPUTER OR INFORMATION SYSTEMS.
19 3. AN EMPLOYER, EMPLOYER'S AGENT, REPRESENTATIVE, OR DESIGNEE SHALL
20 NOT:
21 (A) TERMINATE, DISCIPLINE, OR OTHERWISE PENALIZE AN EMPLOYEE OR
22 THREATEN TO TERMINATE, DISCIPLINE, OR OTHERWISE PENALIZE AN EMPLOYEE FOR
23 THE EMPLOYEE'S REFUSAL TO DISCLOSE ANY INFORMATION SPECIFIED IN SUBDIVI-
24 SION TWO OF THIS SECTION; OR
25 (B) FAIL OR REFUSE TO HIRE ANY APPLICANT AS A RESULT OF THE APPLI-
26 CANT'S REFUSAL TO PROVIDE ANY INFORMATION PURSUANT TO SUBDIVISION TWO OF
27 THIS SECTION.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 4. (A) WHERE A VIOLATION OF THIS SECTION IS ALLEGED TO HAVE OCCURRED,
2 THE ATTORNEY GENERAL MAY APPLY IN THE NAME OF THE PEOPLE OF THE STATE OF
3 NEW YORK FOR AN ORDER ENJOINING OR RESTRAINING THE COMMISSION OR CONTIN-
4 UANCE OF THE ALLEGED UNLAWFUL ACTS. IN ANY SUCH PROCEEDING, THE COURT
5 MAY IMPOSE A CIVIL PENALTY IN THE AMOUNT OF THREE HUNDRED DOLLARS FOR
6 THE FIRST VIOLATION AND FIVE HUNDRED DOLLARS FOR EACH SUBSEQUENT
7 VIOLATION.

8 (B) IN ADDITION TO ANY OTHER PENALTIES OR ACTIONS OTHERWISE APPLICABLE
9 PURSUANT TO THIS CHAPTER, WHERE A VIOLATION OF THIS SECTION IS ALLEGED
10 TO HAVE OCCURRED, AN AGGRIEVED INDIVIDUAL MAY COMMENCE AN ACTION FOR
11 EQUITABLE RELIEF AND DAMAGES.

12 S 2. This act shall take effect immediately.