STATE OF NEW YORK

10591

IN ASSEMBLY

June 5, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. L. Rosenthal) -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to prohibiting employers from requiring access to social media accounts of applicants and current employees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The labor law is amended by adding a new section 201-h to read as follows:

§ 201-h. Social media inquiries by employers prohibited. 1. For the purposes of this section, the following terms shall have the following meanings:

a. "Employer" shall include but not be limited to any person, corporation, limited liability company, association, labor organization, or entity employing any individual in any occupation, industry, trade, business or service, or any agent thereof. For the purposes of this section, the term "employer" shall also include the state, any political subdivision thereof, any public authority or any other governmental entity or instrumentality thereof, and any person, corporation, limited liability company, association or entity acting as an employment agent, recruiter, or otherwise connecting applicants with employers.

b. "Social media account" shall mean an account for an internet-based service that allows individuals to: (i) construct a public or semi-public profile within a bounded system, created by the service; (ii) create a list of other users with whom they share a connection within the system; (iii) view and navigate their list of connections and those made by others within the system; and (iv) participate in online communities to share information, ideas, personal messages, and other content.

2. No employer shall, orally or in writing, seek, request, or require an applicant or current employee to disclose information related to their personal social media account or accounts, including but not limited to, usernames, passwords, or the contents of such social media accounts.

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

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3. No employer shall, orally or in writing, seek, request, or require an applicant or current employee to provide the employer access to a social media account, including but not limited to, requiring an applicant or current employee to open a social media account and show the contents of such account to an employer.

4. The requirements of subdivisions two and three of this section shall not apply to employers when it is reasonable to believe that an applicant or current employee's social media account contains information which is related to an employee misconduct investigation or any violation of law.

5. A violation of this section shall subject the offender to a civil penalty of up to one thousand dollars for the first violation and up to five thousand dollars for any subsequent violation.

§ 2. This act shall take effect immediately.