

HOUSE BILL No. 5523

March 29, 2012, Introduced by Reps. Nesbitt, Opsommer and Horn and referred to the Committee on Energy and Technology.

A bill to prohibit employers and educational institutions from requiring certain individuals to disclose information that allows access to certain social networking accounts; to prohibit employers and educational institutions from taking certain actions for failure to disclose information that allows access to certain social networking accounts; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "social network account privacy act".

3 Sec. 2. As used in this act:

4 (a) "Access information" means user name, password, login
5 information, or other security information that protects access to
6 a social networking account.

7 (b) "Educational institution" means a public or private

1 educational institution or a separate school or department of a
2 public or private educational institution, and includes an academy;
3 elementary or secondary school; extension course; kindergarten;
4 nursery school; school system; school district; intermediate school
5 district; business, nursing, professional, secretarial, technical,
6 or vocational school; and an agent of an educational institution.
7 Educational institution shall be construed broadly to include
8 public and private institutions of higher education to the greatest
9 extent consistent with constitutional limitations.

10 (c) "Employer" means a person, including a unit of state or
11 local government, engaged in a business, industry, profession,
12 trade, or other enterprise in this state and includes an agent,
13 representative, or designee of the employer.

14 (d) "Social networking account" means a personalized, privacy-
15 protected website that allows an individual to do all of the
16 following:

17 (i) Construct a public or semipublic profile within a bounded
18 system established by an internet-based service.

19 (ii) Create a list of other system users who are granted access
20 to, and reciprocal communication privileges with, the individual's
21 website.

22 Sec. 3. An employer shall not do any of the following:

23 (a) Request an employee or an applicant for employment to
24 disclose access information associated with the employee's or
25 applicant's social networking account.

26 (b) Discharge, discipline, fail to hire, or otherwise
27 discriminate against an employee or applicant for employment for

1 failure to disclose access information associated with the
2 employee's or applicant's social networking account.

3 Sec. 4. An educational institution shall not do any of the
4 following:

5 (a) Request a student or prospective student to disclose
6 access information associated with the student or prospective
7 student's social networking account.

8 (b) Discharge, discipline, fail to admit, or otherwise
9 discriminate against a student or prospective student for failure
10 to disclose access information associated with the student's or
11 prospective student's social networking account.

12 Sec. 5. (1) A person who violates section 3 or 4 is guilty of
13 a misdemeanor punishable by imprisonment for not more than 93 days
14 or a fine of not more than \$1,000.00, or both.

15 (2) An individual who is the subject of a violation of this
16 act may bring a civil action for a violation of section 3 or 4 and
17 may recover actual damages or \$1,000.00, whichever is greater, and
18 reasonable attorney fees and court costs. Except for good cause,
19 not later than 60 days before filing a civil action, the individual
20 shall make a written demand of the alleged violator for the greater
21 of the amount of the individual's actual damages or \$1,000.00. The
22 written demand shall include reasonable documentation of the
23 violation and, if applicable, of the actual damages. The written
24 demand and documentation shall either be served in the manner
25 provided by law for service of process in civil actions or mailed
26 by certified mail with sufficient postage affixed and addressed to
27 the alleged violator at his or her residence, principal office, or

1 place of business. An action under this subsection may be brought
2 in the circuit court for the county where the alleged violation
3 occurred or for the county where the person against whom the civil
4 complaint is filed resides or has his or her principal place of
5 business.