

## SOCIAL NETWORK ACCOUNT PRIVACY ACT

Mary Ann Cleary, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

### House Bill 5523

Sponsor: Rep. Aric Nesbitt

Committee: Energy and Technology

Complete to 5-23-12

### A SUMMARY OF HOUSE BILL 5523 AS INTRODUCED 3-29-12

The bill would create a new act, to be known as the Social Network Account Privacy Act, which would, generally speaking, prohibit employers and educational institutions from requesting "access information" associated with "social networking accounts" for prospective and/or current employees and students.

"Access information" would mean a user name, password, login information, or other security information that protects access to a social networking account. "Social networking account" would mean a personalized, privacy-protected website that allows an individual to (1) construct a public or semipublic profile within a bounded system established by an internet-based service and (2) create a list of other system users who are granted access to, and reciprocal communication privileges with, the individual's website.

#### Prohibited acts by an employer

Employers would be prohibited from (1) requesting an employee or applicant to disclose access information associated with a social network account, and (2) from discharging, disciplining, failing to hire, or otherwise discriminating against an employee or applicant for failing to disclose access information.

#### Prohibited acts by an educational institution

Educational institutions would be prohibited from (1) requesting a current or prospective student to disclose access information associated with that student's social networking account, and (2) from discharging, disciplining, failing to admit, or otherwise discriminating against that student for failing to disclose social network account access information.

#### Penalties for violation

Anyone found in violation of the act would be guilty of a misdemeanor and subject to imprisonment up to 93 days and/or a maximum fine of \$1,000.

#### Civil action

Individuals who are subject of a violation could bring a civil action and recover actual damages or \$1,000, whichever is greater, and reasonable attorney fees and court costs. Except for good cause, not later than 60 days before filing a civil action, the individual would have to make a written demand of the alleged violator for the greater of the amount of the actual damages or \$1,000. The written demand would have to include

reasonable documentation of the violation and damages, and would have to be served in the manner provided by law for the service of process in civil actions or be sent by certified mail to the alleged violator's residence, principal office, or place of business.

Civil actions could be brought in the circuit court where the alleged violation occurred or in the county where the alleged violator resides or has a principal place of business.

**FISCAL IMPACT:**

A fiscal analysis is in process. The bill would create a new misdemeanor. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues. The cost of local incarceration in a county jail varies by jurisdiction.

Legislative Analyst: Jeff Stoutenburg

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.