



General Assembly

**Substitute Bill No. 317**

February Session, 2014



**AN ACT CONCERNING EMPLOYEE PRIVACY.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2014*) (a) For purposes of this  
2 section:

3 (1) "Applicant" means any person actively seeking employment  
4 from an employer;

5 (2) "Employee" means any person engaged in service to an employer  
6 in the business of his or her employer;

7 (3) "Employer" means any person engaged in business who has  
8 employees, including the state and any political subdivision thereof,  
9 except "employer" shall not include any state or municipal law  
10 enforcement agency conducting a preemployment investigation or  
11 review of law enforcement personnel;

12 (4) "Electronic communications device" means any electronic device  
13 that is capable of transmitting, accepting or processing data, including,  
14 but not limited to, a computer, computer network and computer  
15 system, as those terms are defined in section 53a-250 of the general  
16 statutes, and a cellular or wireless telephone;

17 (5) "Personal online account" means an online account that is used  
18 by an employee or applicant exclusively for personal purposes and  
19 unrelated to any business purpose of such employee's or applicant's

20 employer or prospective employer, including, but not limited to,  
21 electronic mail, social media and retail-based Internet web sites.  
22 "Personal online account" does not include any account created,  
23 maintained, used or accessed by an employee or applicant for a  
24 business purpose of such employee's or applicant's employer or  
25 prospective employer.

26 (b) Except as provided in subsection (c) of this section, no employer  
27 shall:

28 (1) Request or require that an employee or applicant provide such  
29 employer with a user name and password, password or any other  
30 authentication means for accessing a personal online account;

31 (2) Request or require that an employee or applicant authenticate or  
32 access a personal online account in the presence of such employer;

33 (3) Discharge, discipline, discriminate against, retaliate against or  
34 otherwise penalize any employee (A) who refuses or declines to  
35 provide such employer with a user name and password, password or  
36 any other authentication means for accessing his or her personal online  
37 account, (B) who refuses or declines to authenticate or access a  
38 personal online account in the presence of such employer, or (C) who  
39 files, or causes to be filed, any complaint, whether verbally or in  
40 writing, with a public or private body or court concerning such  
41 employer's violation of subdivisions (1) to (3), inclusive, of this  
42 subsection; or

43 (4) Fail or refuse to hire any applicant as a result of his or her refusal  
44 to (A) provide such employer with a user name and password,  
45 password or any other authentication means for accessing a personal  
46 online account, or (B) authenticate or access a personal online account  
47 in the presence of such employer.

48 (c) (1) An employer may request or require that an employee or  
49 applicant provide such employer with a user name and password,  
50 password or any other authentication means for accessing (A) any

51 account or service provided by such employer or by virtue of the  
52 employee's employment relationship with such employer or that the  
53 employee uses for such employer's business purposes, or (B) any  
54 electronic communications device supplied or paid for, in whole or in  
55 part, by such employer.

56 (2) No employer shall be prohibited from discharging, disciplining  
57 or otherwise penalizing an employee or applicant that has transferred,  
58 without such employer's permission, such employer's proprietary  
59 information, confidential information or financial data to or from such  
60 employee or applicant's personal online account.

61 (d) Nothing in this section shall prevent an employer from:

62 (1) (A) Conducting an investigation for the purpose of ensuring  
63 compliance with applicable state or federal laws, regulatory  
64 requirements or prohibitions against work-related employee  
65 misconduct based on the receipt of specific information about activity  
66 on an employee or applicant's personal online account, or (B)  
67 conducting an investigation based on the receipt of specific  
68 information about an employee or applicant's unauthorized transfer of  
69 such employer's proprietary information, confidential information or  
70 financial data to or from a personal online account operated by an  
71 employee, applicant or other source. Any employer conducting an  
72 investigation pursuant to this subdivision may require an employee or  
73 applicant to allow such employer to access his or her personal online  
74 account for the purpose of conducting such investigation, provided  
75 such employer shall not require such employee or applicant to disclose  
76 the user name and password, password or other authentication means  
77 for accessing such personal online account; or

78 (2) Monitoring, reviewing, accessing or blocking electronic data  
79 stored on an electronic communications device paid for, in whole or in  
80 part, by an employer, or traveling through or stored on an employer's  
81 network, in compliance with state and federal law.

82 (e) Nothing in this section shall be construed to prevent an  
83 employer from complying with the requirements of state or federal  
84 statutes, rules or regulations, case law or rules of self-regulatory  
85 organizations.

86 (f) Any employee or applicant may file a complaint with the Labor  
87 Commissioner alleging violations of subsection (b) of this  
88 section. Upon receipt of the complaint, the commissioner shall  
89 investigate such complaint and may hold a hearing. After the hearing,  
90 the commissioner shall send each party a written copy of his or her  
91 decision. Any employee or applicant who prevails in such hearing  
92 shall be awarded reasonable attorney's fees and costs.

93 (g) If the commissioner finds an employee has been aggrieved by an  
94 employer's violation of subdivision (1), (2) or (3) of subsection (b) of  
95 this section, the commissioner may (1) levy against the employer a civil  
96 penalty of up to five hundred dollars for the first violation and one  
97 thousand dollars for each subsequent violation, and (2) award such  
98 employee all appropriate relief including rehiring or reinstatement to  
99 his or her previous job, payment of back wages, reestablishment of  
100 employee benefits or any other remedies that the commissioner may  
101 deem appropriate.

102 (h) If the commissioner finds an applicant has been aggrieved by an  
103 employer's violation of subdivision (1), (2) or (4) of subsection (b) of  
104 this section, the commissioner may levy against the employer a civil  
105 penalty of up to twenty-five dollars for the first violation and five  
106 hundred dollars for each subsequent violation.

107 (i) Any party aggrieved by the decision of the commissioner may  
108 appeal the decision to the Superior Court in accordance with the  
109 provisions of chapter 54 of the general statutes.

110 (j) The commissioner may request the Attorney General to bring an  
111 action in the Superior Court to recover the penalties levied pursuant to  
112 subsections (f) and (h) of this section.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2014</i>	New section
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**LAB**      *Joint Favorable Subst.*