



Substitute Senate Bill No. 426

Public Act No. 15-6

AN ACT CONCERNING EMPLOYEE ONLINE PRIVACY.

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

Section 1. (NEW) (*Effective October 1, 2015*) (a) For purposes of this section:

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

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

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

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

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(5) "Personal online account" means any online account that is used by an employee or applicant exclusively for personal purposes and unrelated to any business purpose of such employee's or applicant's employer or prospective employer, including, but not limited to, electronic mail, social media and retail-based Internet web sites. "Personal online account" does not include any account created, maintained, used or accessed by an employee or applicant for a business purpose of such employee's or applicant's employer or prospective employer.

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

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

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

(3) Require that an employee or applicant invite such employer or accept an invitation from the employer to join a group affiliated with any personal online account of the employee or applicant;

(4) Discharge, discipline, discriminate against, retaliate against or otherwise penalize any employee who (A) refuses to provide such employer with a user name and password, password or any other authentication means for accessing his or her personal online account, (B) refuses to authenticate or access a personal online account in the presence of such employer, (C) refuses to invite such employer or accept an invitation from the employer to join a group affiliated with any personal online account of the employee, or (D) files, or causes to be filed, any complaint, whether verbally or in writing, with a public or private body or court concerning such employer's violation of this

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subdivision and subdivisions (1) to (3), inclusive, of this subsection; or

(5) Fail or refuse to hire any applicant as a result of his or her refusal to (A) provide such employer with a user name and password, password or any other authentication means for accessing a personal online account, (B) authenticate or access a personal online account in the presence of such employer, or (C) invite such employer or accept an invitation from the employer to join a group affiliated with any personal online account of the applicant.

(c) (1) An employer may request or require that an employee or applicant provide such employer with a user name and password, password or any other authentication means for accessing (A) any account or service provided by such employer or by virtue of the employee's employment relationship with such employer or that the employee uses for such employer's business purposes, or (B) any electronic communications device supplied or paid for, in whole or in part, by such employer.

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

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

(1) (A) Conducting an investigation for the purpose of ensuring compliance with applicable state or federal laws, regulatory requirements or prohibitions against work-related employee misconduct based on the receipt of specific information about activity on an employee or applicant's personal online account, or (B) conducting an investigation based on the receipt of specific information about an employee or applicant's unauthorized transfer of

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such employer's proprietary information, confidential information or financial data to or from a personal online account operated by an employee, applicant or other source. Any employer conducting an investigation pursuant to this subdivision may require an employee or applicant to allow such employer to access his or her personal online account for the purpose of conducting such investigation, provided such employer shall not require such employee or applicant to disclose the user name and password, password or other authentication means for accessing such personal online account; or

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

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

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

(g) If the commissioner finds an employee has been aggrieved by an employer's violation of subdivision (1), (2), (3) or (4) of subsection (b) of this section, the commissioner may (1) levy against the employer a civil penalty of up to five hundred dollars for the first violation and one thousand dollars for each subsequent violation, and (2) award such employee all appropriate relief including rehiring or

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reinstatement to his or her previous job, payment of back wages, reestablishment of employee benefits or any other remedies that the commissioner may deem appropriate.

(h) If the commissioner finds an applicant has been aggrieved by an employer's violation of subdivision (1), (2), (3) or (5) of subsection (b) of this section, the commissioner may levy against the employer a civil penalty of up to twenty-five dollars for the first violation and five hundred dollars for each subsequent violation.

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

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

Approved May 19, 2015