

112TH CONGRESS
2^D SESSION

H. R. 5050

To prohibit employers and certain other entities from requiring or requesting that employees and certain other individuals provide a user name, password, or other means for accessing a personal account on any social networking website.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2012

Mr. ENGEL (for himself and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To prohibit employers and certain other entities from requiring or requesting that employees and certain other individuals provide a user name, password, or other means for accessing a personal account on any social networking website.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Social Networking On-
5 line Protection Act”.

1 **SEC. 2. EMPLOYER ACCESS TO PERSONAL ACCOUNTS ON**
2 **SOCIAL NETWORKING WEBSITES.**

3 (a) **CONDUCT PROHIBITED.**—It shall be unlawful for
4 any employer—

5 (1) to require or request that an employee or
6 applicant for employment provide the employer with
7 a user name, password, or any other means for ac-
8 cessing a private email account of the employee or
9 applicant or the personal account of the employee or
10 applicant on any social networking website; or

11 (2) to discharge, discipline, discriminate against
12 in any manner, or deny employment or promotion
13 to, or threaten to take any such action against, any
14 employee or applicant for employment because—

15 (A) the employee or applicant for employ-
16 ment refuses or declines to provide a user
17 name, password, or other means for accessing a
18 private email account of the employee or appli-
19 cant or the personal account of the employee or
20 applicant on any social networking website; or

21 (B) such employee or applicant for employ-
22 ment has filed any complaint or instituted or
23 caused to be instituted any proceeding under or
24 related to this Act or has testified or is about
25 to testify in any such proceeding.

26 (b) **ENFORCEMENT.**—

1 (1) CIVIL PENALTIES.—

2 (A) IN GENERAL.—Subject to paragraph
3 (2), any employer who violates any provision of
4 this Act may be assessed a civil penalty of not
5 more than \$10,000.

6 (B) DETERMINATION OF AMOUNT.—In de-
7 termining the amount of any penalty under
8 paragraph (1), the Secretary of Labor shall
9 take into account the previous record of the
10 person in terms of compliance with this Act and
11 the gravity of the violation.

12 (C) COLLECTION.—Any civil penalty as-
13 sessed under this subsection shall be collected
14 in the same manner as is required by sub-
15 sections (b) through (e) of section 503 of the
16 Migrant and Seasonal Agricultural Worker Pro-
17 tection Act (29 U.S.C. 1853) with respect to
18 civil penalties assessed under subsection (a) of
19 such section.

20 (2) INJUNCTIVE ACTIONS BY THE SECRETARY
21 OF LABOR.—The Secretary of Labor may bring an
22 action under this section to restrain violations of this
23 Act. In any action brought under this section, the
24 district courts of the United States shall have juris-
25 diction, for cause shown, to issue temporary or per-

1 manent restraining orders and injunctions to require
2 compliance with this Act, including such legal or eq-
3 uitable relief incident thereto as may be appropriate,
4 including, employment, reinstatement, promotion,
5 and the payment of lost wages and benefits.

6 **SEC. 3. INSTITUTION OF HIGHER EDUCATION ACCESS TO**
7 **PERSONAL ACCOUNTS ON SOCIAL NET-**
8 **WORKING WEBSITES.**

9 Section 487(a) of the Higher Education Act of 1965
10 (20 U.S.C. 1095(a)) is amended by adding at the end the
11 following:

12 “(30)(A) The institution will not—

13 “(i) require or request that a student
14 or potential student provide the institution
15 with a user name, password, or any other
16 means for accessing a private email ac-
17 count of the student or potential student
18 or the personal account of the student or
19 potential student on any social networking
20 website; or

21 “(ii) discharge, discipline, discriminate
22 against in any manner, or deny admission
23 to, suspend, or expel, or threaten to take
24 any such action against, any student or po-
25 tential student because—

1 “(I) the student or potential stu-
2 dent refuses or declines to provide a
3 user name, password, or other means
4 for accessing a private email account
5 of the student or potential student or
6 the personal account of the student or
7 potential student on any social net-
8 working website; or

9 “(II) such student or potential
10 student has filed any complaint or in-
11 stituted or caused to be instituted any
12 proceeding under or related to this
13 paragraph or has testified or is about
14 to testify in any such proceeding.

15 “(B) For purposes of this paragraph, the term
16 ‘social networking website’ has the meaning given
17 such term in section 5(2) of the Social Networking
18 Online Protection Act.”.

19 **SEC. 4. LOCAL EDUCATIONAL AGENCY ACCESS TO PER-**
20 **SONAL ACCOUNTS ON SOCIAL NETWORKING**
21 **WEBSITES.**

22 (a) IN GENERAL.—Subpart 2 of part E of title IX
23 of the Elementary and Secondary Education Act of 1965
24 (20 U.S.C. 1094 et seq.) is amended by adding at the end
25 the following new section:

1 **“SEC. 9537. PROHIBITION ON ACCESS TO PERSONAL AC-**
2 **COUNTS OF STUDENTS.**

3 “(a) IN GENERAL.—No local educational agency re-
4 ceiving funds under this Act may—

5 “(1) require or request that a student or poten-
6 tial student provide the agency or a school served by
7 the agency with a user name, password, or any other
8 means for accessing a private email account of the
9 student or potential student or the personal account
10 of the student or potential student on any social net-
11 working website; or

12 “(2) discharge, discipline, discriminate against
13 in any manner, or deny admission to, suspend, or
14 expel, or threaten to take any such action against,
15 any student or potential student because—

16 “(A) the student or potential student re-
17 fuses or declines to provide a user name, pass-
18 word, or other means for accessing a private
19 email account of the student or potential stu-
20 dent or the personal account of the student or
21 potential student on any social networking
22 website; or

23 “(B) such student or potential student has
24 filed any complaint or instituted or caused to be
25 instituted any proceeding under or related to

1 this paragraph or has testified or is about to
2 testify in any such proceeding.

3 “(b) DEFINITION.—For purposes of this subsection,
4 the term ‘social networking website’ has the meaning given
5 such term in section 5(2) of the Social Networking Online
6 Protection Act.”.

7 (b) CLERICAL AMENDMENT.—The table of contents
8 for the Elementary and Secondary Education Act of 1965
9 (20 U.S.C. 6301 et seq.) is amended by inserting after
10 the item relating to section 9536, the following new item:

“Sec. 9537. Prohibition on access to personal accounts of students.”.

11 **SEC. 5. DEFINITIONS.**

12 As used in this Act—

13 (1) the term “employer” means any person act-
14 ing directly or indirectly in the interest of an em-
15 ployer in relation to an employee or an applicant for
16 employment; and

17 (2) the term “social networking website” means
18 any Internet service, platform, or website that pro-
19 vides a user with a distinct account—

20 (A) whereby the user can access such ac-
21 count by way of a distinct user name, password,
22 or other means distinct for that user; and

23 (B) that is primarily intended for the user
24 to upload, store, and manage user-generated

- 1 personal content on the service, platform, or
- 2 website.

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