

113TH CONGRESS  
1ST SESSION

# H. R. 537

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.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2013

Mr. ENGEL (for himself, Ms. SCHAKOWSKY, Mr. GRIMM, Mr. TONKO, Mr. ELLISON, and Ms. PINGREE of Maine) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## 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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