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.

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

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 Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Social Networking Online Protection Act”. 
SEC. 2. EMPLOYER ACCESS TO PERSONAL ACCOUNTS ON SOCIAL NETWORKING WEBSITES.

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

(1) to require or request that an employee or applicant for employment provide the employer with a user name, password, or any other means for accessing a private email account of the employee or applicant or the personal account of the employee or applicant on any social networking website; or

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

(A) the employee or applicant for employment refuses or declines to provide a user name, password, or other means for accessing a private email account of the employee or applicant or the personal account of the employee or applicant on any social networking website; or

(B) such employee or applicant for employment has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding.

(b) ENFORCEMENT.—
(1) CIVIL PENALTIES.—

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

(B) DETERMINATION OF AMOUNT.—In determining the amount of any penalty under paragraph (1), the Secretary of Labor shall take into account the previous record of the person in terms of compliance with this Act and the gravity of the violation.

(C) COLLECTION.—Any civil penalty assessed under this subsection shall be collected in the same manner as is required by subsections (b) through (e) of section 503 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1853) with respect to civil penalties assessed under subsection (a) of such section.

(2) INJUNCTIVE ACTIONS BY THE SECRETARY OF LABOR.—The Secretary of Labor may bring an action under this section to restrain violations of this Act. In any action brought under this section, the district courts of the United States shall have jurisdiction, for cause shown, to issue temporary or per-
permanent restraining orders and injunctions to require
compliance with this Act, including such legal or eq-
uitable relief incident thereto as may be appropriate,
including, employment, reinstatement, promotion,
and the payment of lost wages and benefits.

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

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

“(30)(A) The institution will not—

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

“(ii) discharge, discipline, discriminate
against in any manner, or deny admission
to, suspend, or expel, or threaten to take
any such action against, any student or po-
tential student because—
“(I) the student or potential student refuses or declines to provide a user name, password, or other means for accessing a private email account of the student or potential student or the personal account of the student or potential student on any social networking website; or

“(II) such student or potential student has filed any complaint or instituted or caused to be instituted any proceeding under or related to this paragraph or has testified or is about to testify in any such proceeding.

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

SEC. 4. LOCAL EDUCATIONAL AGENCY ACCESS TO PERSONAL ACCOUNTS ON SOCIAL NETWORKING WEBSITES.

(a) In General.—Subpart 2 of part E of title IX of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 1094 et seq.) is amended by adding at the end the following new section:
“SEC. 9537. PROHIBITION ON ACCESS TO PERSONAL ACCOUNTS OF STUDENTS.

“(a) In General.—No local educational agency receiving funds under this Act may—

“(1) require or request that a student or potential student provide the agency or a school served by the agency with a user name, password, or any other means for accessing a private email account of the student or potential student or the personal account of the student or potential student on any social networking website; or

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

“(A) the student or potential student refuses or declines to provide a user name, password, or other means for accessing a private email account of the student or potential student or the personal account of the student or potential student on any social networking website; or

“(B) such student or potential student has filed any complaint or instituted or caused to be instituted any proceeding under or related to
this paragraph or has testified or is about to testify in any such proceeding.

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

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

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

SEC. 5. DEFINITIONS.

As used in this Act—

(1) the term “employer” means any person acting directly or indirectly in the interest of an employer in relation to an employee or an applicant for employment; and

(2) the term “social networking website” means any Internet service, platform, or website that provides a user with a distinct account—

(A) whereby the user can access such account by way of a distinct user name, password, or other means distinct for that user; and

(B) that is primarily intended for the user to upload, store, and manage user-generated
personal content on the service, platform, or website.