
Labor & Workforce Development Committee

SSB 5211

Brief Description: Concerning social networking accounts and profiles.

Sponsors: Senate Committee on Commerce & Labor (originally sponsored by Senators Hobbs, Eide, Kline, Ranker, Hatfield, Harper, Billig, Hasegawa, Kohl-Welles, Shin, Keiser, Frockt, Rolfes, Hill, Conway and Nelson).

Brief Summary of Substitute Bill

- Prohibits demanding access to an employee's or prospective employee's personal account or profile on a social networking website, and prohibits requiring as a condition of employment that an employee or prospective employee provide a password or related account information for a personal account or profile on a social networking website.
- Permits an employee or prospective employee to bring a civil suit, and provides a penalty.

Hearing Date: 3/26/13

Staff: Alexa Silver (786-7190).

Background:

According to the National Conference of State Legislatures, six states enacted legislation in 2012 to prohibit employers or institutions of higher education from requiring an employee, applicant, or student to provide a username or password to a social media account. The laws in California, Illinois, Maryland, and Michigan apply to employers, and the laws in California, Delaware, Michigan, and New Jersey apply to institutions of higher education.

Washington law does not address requests by an employer to access to an employee's or prospective employee's social networking accounts.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill:

It is unlawful for a person, a company, the state, or a local government to:

- directly or indirectly require, as a condition of employment, that an employee or prospective employee submit a password or other related account information to gain access to the employee's or prospective employee's personal account or profile on a social networking website; or
- demand access to an employee's or prospective employee's personal account or profile on a social networking website.

A "social networking website" is an Internet-based service that allows individuals to: construct a public or semipublic profile in a system created by the service; create a list of other users with whom they share a connection in the system; and view and navigate their list of connections and those made by others within the system.

An employer is not prohibited from obtaining information about an employee or prospective employee that is in the public domain or from complying with the requirements of state or federal law or the rules of a self-regulatory organization.

In a civil action alleging violation of these prohibitions, a court may award a \$500 penalty, as well as actual damages, attorneys' fees, and costs. If the judge finds that the action was frivolous and brought without reasonable cause, the judge may award a prevailing defendant reasonable expenses and attorneys' fees.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.