

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2878

STATE OF NEW JERSEY

DATED: MAY 10, 2012

The Assembly Consumer Affairs Committee reports favorably Assembly Bill No. 2878.

This bill prohibits an employer from requiring a current or prospective employee to provide or disclose any user name or password, or in any way provide the employer access to, a personal account or service through an electronic communications device. An employer is also prohibited from asking a current or prospective employee if he has an account or profile on a social networking website.

The bill prohibits an employer from requiring a prospective employee to waive or limit any protection granted under the bill as a condition of applying for or receiving an offer of employment. The bill also prohibits retaliation or discrimination against an individual who:

- (1) refuses to provide or disclose any user name or password, or in any way provide the employer access to, a personal account or service through an electronic communications device;
- (2) files a complaint pursuant to provisions of the bill;
- (3) testifies, assists, or participates in an investigation, proceeding, or action concerning a violation of the bill; or
- (4) otherwise opposes a violation of the bill.

Any current, prospective, or former employee aggrieved under the provisions of the bill may bring action in a court of competent jurisdiction for appropriate injunctive relief and damages, including reasonable attorneys' fees and court costs. In addition, the bill provides for the imposition of civil penalties in an amount not to exceed \$1,000 for the first violation, or \$2,500 for each subsequent violation, collectible by the Commissioner of Labor and Workforce Development.

Finally, for purposes of the bill: "electronic communications device" means any device that uses electronic signals to create, transmit, and receive information, including a computer, telephone, personal digital assistant, or other similar device; "employer" means any employer or employer's agent, representative, or designee; and "social networking website" means an Internet-based service that allows individuals to construct a public or semi-public profile within a bounded system created by the service, create a list of other users with whom they share a connection within the system, and view and

navigate their list of connections and those made by others within the system.