

# SENATE, No. 1915

## STATE OF NEW JERSEY

### 215th LEGISLATURE

INTRODUCED MAY 14, 2012

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Cumberland, Gloucester and Salem)**

**Senator JIM WHELAN**

**District 2 (Atlantic)**

**SYNOPSIS**

Prohibits requirement to disclose user name, password, or other means for accessing account or service through electronic communications device by employers.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/15/2012)**

1 AN ACT prohibiting the requirement to disclose personal  
2 information for certain electronic communications devices by  
3 employers.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. For purposes of this act:

9 “Electronic communications device” means any device that uses  
10 electronic signals to create, transmit, and receive information,  
11 including a computer, telephone, personal digital assistant, or other  
12 similar device.

13 “Employer” means an employer or employer’s agent,  
14 representative, or designee. The term “employer” does not include  
15 the State Department of Corrections, State Parole Board, county  
16 corrections departments, or any State or local law enforcement  
17 agency.

18 “Social networking website” means an Internet-based service  
19 that allows individuals to construct a public or semi-public profile  
20 within a bounded system created by the service, create a list of  
21 other users with whom they share a connection within the system,  
22 and view and navigate their list of connections and those made by  
23 others within the system.

24  
25 2. No employer shall:

26 a. Require a current or prospective employee to provide or  
27 disclose any user name or password, or in any way provide the  
28 employer access to, a personal account or service through an  
29 electronic communications device; or

30 b. In any way inquire as to whether a current or prospective  
31 employee has an account or profile on a social networking website.

32  
33 3. No employer shall require an individual to waive or limit  
34 any protection granted under this act as a condition of applying for  
35 or receiving an offer of employment. An agreement to waive any  
36 right or protection under this act is against the public policy of this  
37 State and is void and unenforceable.

38  
39 4. No employer shall retaliate or discriminate against an  
40 individual because the individual has done or was about to do any  
41 of the following:

42 a. Refuse to provide or disclose any user name or password, or  
43 in any way provide access to, a personal account or service through  
44 an electronic communications device;

45 b. File a complaint under this act;

46 c. Testify, assist, or participate in an investigation, proceeding,  
47 or action concerning a violation of this act; or

48 d. Otherwise oppose a violation of this act.



1 individual because the individual has done or was about to do any  
2 of the following:

3 (1) refuse to provide or disclose any user name or password, or  
4 in any way provide the employer access to, a personal account or  
5 service through an electronic communications device;

6 (2) file a complaint pursuant to provisions of the bill;

7 (3) testify, assist, or participate in an investigation, proceeding,  
8 or action concerning a violation of the bill; or

9 (4) otherwise oppose a violation of the bill.

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

18 For purposes of the bill: "electronic communications device"  
19 means any device that uses electronic signals to create, transmit,  
20 and receive information, including a computer, telephone, personal  
21 digital assistant, or other similar device; "employer" means any  
22 employer or employer's agent, representative, or designee;  
23 however, the term "employer" does not include the State  
24 Department of Corrections, State Parole Board, county corrections  
25 departments, or any State or local law enforcement agency; and  
26 "social networking website" means an Internet-based service that  
27 allows individuals to construct a public or semi-public profile  
28 within a bounded system created by the service, create a list of  
29 other users with whom they share a connection within the system,  
30 and view and navigate their list of connections and those made by  
31 others within the system.