

Stricken language would be deleted from and underlined language would be added to present law.
Act 1480 of the Regular Session

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H3/22/13 S4/16/13
A Bill

HOUSE BILL 1901

By: Representative Steel

For An Act To Be Entitled

AN ACT TO PROHIBIT AN EMPLOYER FROM REQUIRING OR REQUESTING A CURRENT OR PROSPECTIVE EMPLOYEE FROM DISCLOSING HIS OR HER USERNAME OR PASSWORD FOR A SOCIAL MEDIA ACCOUNT OR TO PROVIDE ACCESS TO THE CONTENT OF HIS OR HER SOCIAL MEDIA ACCOUNT; AND FOR OTHER PURPOSES.

Subtitle

TO PROHIBIT AN EMPLOYER FROM REQUIRING OR REQUESTING A CURRENT OR PROSPECTIVE EMPLOYEE FROM DISCLOSING HIS OR HER USERNAME OR PASSWORD FOR A SOCIAL MEDIA ACCOUNT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 11, Chapter 2, Subchapter 1, is amended to add an additional section to read as follows:

11-2-124. Social media accounts of current and prospective employees.

(a) As used in this section:

(1) "Employee" means an individual who provides services or labor for wages or other remuneration for an employer;

(2) "Employer" means a person or entity engaged in business, an industry, a profession, a trade, or other enterprise in the state or a unit of state or local government, including without limitation an agent, representative, or designee of the employer; and

(3)(A) "Social media account" means a personal account with an



electronic medium or service where users may create, share, or view user-generated content, including without limitation:

- (i) Videos;
- (ii) Photographs;
- (iii) Blogs;
- (iv) Podcasts;
- (v) Messages;
- (vi) Emails; or
- (vii) Website profiles or locations.

(B) "Social media account" does not include an account:

(i) Opened by an employee at the request of an employer;
(ii) Provided to an employee by an employer such as a company email account or other software program owned or operated exclusively by an employer;

(iii) Setup by an employee on behalf of an employer; or

(iv) Setup by an employee to impersonate an employer through the use of the employer's name, logos, or trademarks.

(C) "Social media account" includes without limitation an account established with Facebook, Twitter, LinkedIn, MySpace, or Instagram.

(b)(1) An employer shall not require, request, suggest, or cause a current or prospective employee to:

(A) Disclose his or her username and password to the current or prospective employee's social media account;

(B) Add an employee, supervisor, or administrator to the list or contacts associated with his or her social media account; or

(C) Change the privacy settings associated with his or her social media account.

(2) If an employer inadvertently receives an employee's username, password, or other login information to the employee's social media account through the use of an electronic device provided to the employee by the employer or a program that monitors an employer's network the employer is not liable for having the information but may not use the information to gain access to an employee's social media account.

(c) An employer shall not:

(1) Take action against or threaten to discharge, discipline, or otherwise penalize a current employee for exercising his or her rights under

subsection (b) of this section; or

(2) Fail or refuse to hire a prospective employee for exercising his or her rights under subsection (b) of this section.

(d) This section does not prohibit an employer from viewing information about a current or prospective employee that is publicly available on the Internet.

(e) Nothing in this section:

(1) Prevents an employer from complying with the requirements of federal, state, or local laws, rules, or regulations or the rules or regulations of self-regulatory organizations; or

(2)(A) Affects an employer's existing rights or obligations to request an employee to disclose his or her username and password for the purpose of accessing a social media account if the employee's social media account activity is reasonably believed to be relevant to a formal investigation or related proceeding by the employer of allegations of an employee's violation of federal, state, or local laws or regulations or of the employer's written policies.

(B) If an employer exercises its rights under subdivision (e)(2)(A) of this section, the employee's username and password shall only be used for the purpose of the formal investigation or a related proceeding.

/s/Steel

APPROVED: 04/22/2013