

114TH CONGRESS  
2D SESSION

# H. R. 5107

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.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2016

Mr. ENGEL (for himself, Mr. TONKO, Ms. SCHAKOWSKY, and Mr. ELLISON) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## 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 Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Social Networking On-  
5 line Protection Act”.

1 **SEC. 2. EMPLOYER ACCESS TO PERSONAL ACCOUNTS ON**  
2 **SOCIAL NETWORKING WEBSITES.**

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

5 (1) to require or request that an employee or  
6 applicant for employment provide the employer with  
7 a password or any other means for accessing a pri-  
8 vate email account of the employee or applicant or  
9 a personal online account of the employee or appli-  
10 cant, including any social networking website; or

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

15 (A) the employee or applicant for employ-  
16 ment refuses or declines to provide password or  
17 other means for accessing a private email ac-  
18 count of the employee or applicant or a per-  
19 sonal online account of the employee or appli-  
20 cant, including any social networking website;  
21 or

22 (B) such employee or applicant for employ-  
23 ment has filed any complaint or instituted or  
24 caused to be instituted any proceeding under or  
25 related to this Act or has testified or is about  
26 to testify in any such proceeding.

1 (b) ENFORCEMENT.—

2 (1) CIVIL PENALTIES.—

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

7 (B) DETERMINATION OF AMOUNT.—In de-  
8 termining the amount of any penalty under  
9 paragraph (1), the Secretary of Labor shall  
10 take into account the previous record of the  
11 person in terms of compliance with this Act and  
12 the gravity of the violation.

13 (C) COLLECTION.—Any civil penalty as-  
14 sessed under this subsection shall be collected  
15 in the same manner as is required by sub-  
16 sections (b) through (e) of section 503 of the  
17 Migrant and Seasonal Agricultural Worker Pro-  
18 tection Act (29 U.S.C. 1853) with respect to  
19 civil penalties assessed under subsection (a) of  
20 such section.

21 (2) INJUNCTIVE ACTIONS BY THE SECRETARY  
22 OF LABOR.—The Secretary of Labor may bring an  
23 action under this section to restrain violations of this  
24 Act. In any action brought under this section, the  
25 district courts of the United States shall have juris-

1       diction, for cause shown, to issue temporary or per-  
2       manent restraining orders and injunctions to require  
3       compliance with this Act, including such legal or eq-  
4       uitable relief incident thereto as may be appropriate,  
5       including, employment, reinstatement, promotion,  
6       and the payment of lost wages and benefits.

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

10       Section 487(a) of the Higher Education Act of 1965  
11       (20 U.S.C. 1095(a)) is amended by adding at the end the  
12       following:

13               “(30)(A) The institution will not—

14                   “(i) require or request that a student  
15                   or potential student provide the institution  
16                   with a password or any other means for  
17                   accessing a private email account of the  
18                   student or potential student or a personal  
19                   online account of the student or potential  
20                   student, including any social networking  
21                   website; or

22                   “(ii) discharge, discipline, discriminate  
23                   against in any manner, or deny admission  
24                   to, suspend, or expel, or threaten to take

1 any such action against, any student or po-  
2 tential student because—

3 “(I) the student or potential stu-  
4 dent refuses or declines to provide a  
5 password or other means for accessing  
6 a private email account of the student  
7 or potential student or a personal on-  
8 line account of the student or poten-  
9 tial student, including any social net-  
10 working website; or

11 “(II) such student or potential  
12 student has filed any complaint or in-  
13 stituted or caused to be instituted any  
14 proceeding under or related to this  
15 paragraph or has testified or is about  
16 to testify in any such proceeding.

17 “(B) For purposes of this paragraph, the  
18 term ‘social networking website’ has the mean-  
19 ing given such term in section 5(2) of the So-  
20 cial Networking Online Protection Act.”.

21 **SEC. 4. LOCAL EDUCATIONAL AGENCY ACCESS TO PER-**  
22 **SONAL ACCOUNTS ON SOCIAL NETWORKING**  
23 **WEBSITES.**

24 (a) IN GENERAL.—Subpart 2 of part E of title IX  
25 of the Elementary and Secondary Education Act of 1965

1 (20 U.S.C. 1094 et seq.) is amended by adding at the end  
2 the following new section:

3 **“SEC. 9537. PROHIBITION ON ACCESS TO PERSONAL AC-**  
4 **COUNTS OF STUDENTS.**

5 “(a) IN GENERAL.—No local educational agency re-  
6 ceiving funds under this Act may—

7 “(1) require or request that a student or poten-  
8 tial student provide the agency or a school served by  
9 the agency with a password or any other means for  
10 accessing a private email account of the student or  
11 potential student or a personal online account of the  
12 student or potential student, including any social  
13 networking website; or

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

18 “(A) the student or potential student re-  
19 fuses or declines to provide a password or other  
20 means for accessing a private email account of  
21 the student or potential student or a personal  
22 online account of the student or potential stu-  
23 dent, including any social networking website;  
24 or

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

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

10          (b) CLERICAL AMENDMENT.—The table of contents  
11          for the Elementary and Secondary Education Act of 1965  
12          (20 U.S.C. 6301 et seq.) is amended by inserting after  
13          the item relating to section 9536, the following new item:

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

14          **SEC. 5. DEFINITIONS.**

15          As used in this Act—

16                 (1) the term “employer” means any person act-  
17                 ing directly or indirectly in the interest of an em-  
18                 ployer in relation to an employee or an applicant for  
19                 employment; and

20                 (2) the term “social networking website” means  
21                 any Internet service, platform, or website that pro-  
22                 vides a user with a distinct account—

23                         (A) whereby the user can access such ac-  
24                         count by way of a distinct user name, password,  
25                         or other means distinct for that user; and

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

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