

A bill to be entitled

An act relating to social media privacy; creating s. 448.077, F.S.; providing definitions; prohibiting an employer from requesting or requiring access to a social media account of an employee or prospective employee; prohibiting an employer from taking retaliatory personnel action for an employee's failure to provide access to his or her social media account; prohibiting an employer from failing or refusing to hire a prospective employee who does not provide access to his or her social media account; authorizing civil actions for violations; providing for recovery of attorney fees and court costs; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 448.077, Florida Statutes, is created to read:

448.077 Employer access to employee social media accounts prohibited.-

(1) As used in this section, the term:

(a) "Electronic communications device" means a device that uses electronic signals to create, transmit, or receive information, including computers, telephones, personal digital assistants, and other similar devices.

27 (b) "Retaliatory personnel action" has the same meaning as  
 28 in s. 448.101.

29 (c) "Social media account" means an interactive personal  
 30 account or profile that an individual establishes and uses  
 31 through an electronic application, service, or platform used to  
 32 generate or store content, including, but not limited to,  
 33 videos, still photographs, blogs, video blogs, instant messages,  
 34 audio recordings, or e-mail that is not available to the general  
 35 public.

36 (2) An employer may not do any of the following:

37 (a) Request or require an employee or prospective employee  
 38 to disclose a username, password, or other means of accessing a  
 39 social media account through an electronic communications  
 40 device.

41 (b) Request or require an employee or prospective employee  
 42 to take an action that allows the employer to gain access to the  
 43 employee's or prospective employee's social media account if the  
 44 account's contents are not available to the general public.

45 (c) Take retaliatory personnel action against an employee  
 46 for refusing to give the employer access to the employee's  
 47 social media account.

48 (d) Fail or refuse to hire a prospective employee as a  
 49 result of the prospective employee's refusal to allow the  
 50 employer access to the prospective employee's social media  
 51 account.

52 (3) An employee or prospective employee may bring a civil

53 action against an employer who violates this section in a court  
54 located in the county in which the employee or prospective  
55 employee resides or where the alleged violation occurred. Such  
56 action must be brought within 2 years after the violation  
57 occurred. The employee or prospective employee may seek  
58 injunctive relief to restrain the employer from continuing to  
59 act in violation of this section and may recover damages in an  
60 amount equal to the actual damages arising from the violation or  
61 \$500 per violation, whichever is greater. An employee or  
62 prospective employee who prevails is entitled to recover court  
63 costs and reasonable attorney fees.

64 Section 2. This act shall take effect October 1, 2014.