

By Senator Clemens

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1 A bill to be entitled
 2 An act relating to social media privacy; creating s.
 3 448.077, F.S.; providing definitions; prohibiting an
 4 employer from requesting or requiring access to a
 5 social media account of an employee or prospective
 6 employee; prohibiting an employer from taking
 7 retaliatory personnel action for an employee's failure
 8 to provide access to his or her social media account;
 9 prohibiting an employer from failing or refusing to
 10 hire a prospective employee who does not provide
 11 access to his or her social media account; authorizing
 12 civil actions for violations; providing for recovery
 13 of attorney fees and court costs; providing an
 14 effective date.

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

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

20 448.077 Employer access to employee social media accounts
 21 prohibited.-

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

23 (a) "Electronic communications device" means a device that
 24 uses electronic signals to create, transmit, or receive
 25 information, including computers, telephones, personal digital
 26 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

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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

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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.