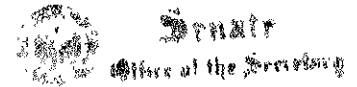


SIXTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Second Regular Session )



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SENATE  
S. No. 2681

RECEIVED BY: *[Signature]*

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Introduced by Senator Miriam Defensor Santiago

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AN ACT  
PROHIBITING EMPLOYERS FROM COMPELLING EMPLOYEES AND  
APPLICANTS FOR EMPLOYMENT TO PROVIDE ACCESS TO THEIR SOCIAL  
MEDIA ACCOUNTS

EXPLANATORY NOTE

The Constitution, Article 3, Section 3 provides:

Section 3. (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise, as prescribed by law.

(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

This Act seeks to prohibit employers from compelling employees or applicants for employment to provide access to their personal social media accounts. The purpose of this prohibition is to defend the fundamental right to privacy of each person.

While many laws provide for the protection of physical property, communication and correspondence, there is a gap in the law with regard to privacy online. As electronic media technology allows for widespread and accessible internet connectivity, personal information and property are no longer confined to physical forms. Most people have social media accounts for sharing personal thoughts and insights, and storing personal information that they may not want to divulge to the public at large. People deserve the same statutory protection with regard to the invasion and abuse of their privacy on the internet and social media.

One way that these may be invaded is when employers compel employees or applicants for employment to divulge passwords to their accounts for whatever purpose. This is an invasion of privacy and must be prohibited.<sup>1</sup>

*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO  
MS

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<sup>1</sup> Adopted from the Oregon State Legislature



1 (2) Compel an employee or applicant for employment to add the employer  
2 or an employment agency to the employee's or applicant's list of  
3 contacts associated with a social media website;

4 (3) Except as provided in Section 5(1), compel an employee or applicant for  
5 employment to access a personal social media account in the presence  
6 of the employer and in a manner that enables the employer to view the  
7 contents of the personal social media account that are visible only when  
8 the personal social media account is accessed by the account holder's  
9 user name and password, password or other means of authentication;

10 (4) Take, or threaten to take, any action to discharge, discipline or  
11 otherwise penalize an employee for the employee's refusal to disclose,  
12 or to provide access through, the employee's user name and password,  
13 password or other means of authentication that is associated with a  
14 personal social media account, to add the employer to the employee's  
15 list of contacts associated with a social media website or to access a  
16 personal social media account as described in paragraph (3) of this  
17 Section; or

18 (5) Fail or refuse to hire an applicant for employment because the applicant  
19 refused to disclose, or to provide access through, the applicant's user  
20 name and password, password or other means of authentication that is  
21 associated with a personal social media account, to add the employer to  
22 the applicant's list of contacts associated with a social media website or  
23 to access a personal social media account as described in Paragraph (3)  
24 of this Section.

1           SECTION 4. *Employer's Account.* - An employer may require an employee to  
2 disclose any user name and password, password or other means for accessing an account  
3 provided by, or on behalf of, the employer or to be used on behalf of the employer.

4           An employer may not be held liable for the failure to request or require an  
5 employee or applicant to disclose the information specified in Section 3(1).

6           SECTION 5. *Permitted Practices.* – Nothing in this Act shall be understood to  
7 prevent an employer from:

8           (1) Conducting an investigation, without requiring an employee to provide  
9           a user name and password, password or other means of authentication  
10           that provides access to a personal social media account of the employee,  
11           for the purpose of ensuring compliance with applicable laws, regulatory  
12           requirements or prohibitions against work-related employee misconduct  
13           based on receipt by the employer of specific information about activity  
14           of the employee on a personal online account or service;

15           (2) Conducting an investigation permitted under this Section that requires  
16           an employee, without providing a user name and password, password or  
17           other means of authentication that provides access to a personal social  
18           media account of the employee, to share content that has been reported  
19           to the employer that is necessary for the employer to make a factual  
20           determination about the matter; or

21           (3) Accessing information available to the public about the employee or  
22           applicant that is accessible through an online account.

1           SECTION 6. *Inadvertent Reception.* - If an employer inadvertently receives the  
2 user name and password, password or other means of authentication that provides access  
3 to a personal social media account of an employee through the use of an electronic device  
4 or program that monitors usage of the employer's network or employer-provided devices,  
5 the employer is not liable for having the information but may not use the information to  
6 access the personal social media account of the employee.

7           SECTION 7. *Separability Clause.* - If any provision or part hereof, is held invalid  
8 or unconstitutional, the remainder of the law or the provision not otherwise affected shall  
9 remain valid and subsisting.

10          SECTION 8. *Repealing Clause.* - Any law, presidential decree or issuance,  
11 executive order, letter of instruction, administrative order, rule or regulation contrary to  
12 or is inconsistent with the provision of this Act is hereby repealed, modified, or amended  
13 accordingly.

14          SECTION 9. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after  
15 its publication in at least two (2) newspapers of general circulation.

Approved,

/aml 27February2015