

New Jersey Senate Approves Bill Restricting Access to Employees' Social Networking Information

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November 16, 2012

The New Jersey state Senate has advanced a key workplace measure that may significantly affect employers in the Garden State. In a unanimous 38-0 vote, the Senate has brought New Jersey one step closer to becoming the fourth state to limit employers' access to the social networking accounts of current employees and job applicants.

Under the proposal (S915), approved by the Senate on October 25th, most employers in New Jersey would be prohibited from requiring or requesting that an employee or job applicant disclose whether he or she has a personal social networking account. Employers also would be prohibited from requesting that the applicant or employee provide access to a social networking account.

It already is illegal in Maryland (S.B. 433/ H.B. 964) for employers to ask employees or applicants for their Facebook and other social media passwords. Similar laws in Illinois (HB 3782) and California (A.B. 1844) will take effect in January 2013.

Unlike these other laws, New Jersey's S915 would create a private right of action against employers. Aggrieved job applicants and employees would be entitled to pursue injunctive relief, compensatory and consequential damages, and reasonable attorneys' fees and court costs. The bill also provides for civil penalties starting at \$1,000 per violation.

The state Assembly already approved a similar bill with overwhelming support, and, if the Assembly approves the Senate's version of the legislation, the measure likely will head to Governor Chris Christie. The Senate version of the bill modifies the Assembly's version by exempting the state Department of Corrections, State Parole Board, county corrections departments and law enforcement agencies from its provisions. The laws in Maryland, Illinois, and California do not appear to include these same exemptions.

If approved, the New Jersey law would take effect on the first day of the fourth month following enactment. The Senate also approved a similar measure aimed at protecting college applicants and students in the state.

Jackson Lewis' New Jersey attorneys will continue to monitor and report on this emerging state law development. For more information about this bill or other workplace developments, please contact the Jackson Lewis attorney with whom you regularly work.

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