
Michigan Prohibits Access to Social Media and Other Personal Internet Accounts

By Tracy A. Leahy / Jan 03, 2013

On December 28, 2012, Governor Rick Snyder signed into law the *Internet Privacy Protection Act* making Michigan the fourth state to prohibit access to passwords to social media, email and other personal internet accounts.

The Act, which became effective immediately, prohibits employers and educational institutions from requiring an employee, applicant for employment, student or prospective student, from providing user names, passwords, login information or other security information that could be used to access personal internet accounts, like Facebook and Twitter. Employers and educational institutions are also prohibited from discharging, disciplining, expelling, failing to hire, failing to admit, or otherwise penalizing an employee, applicant, student, or prospective student for failing to grant access to a personal internet account.

The new law permits an employer to: (i) access electronic devices paid for by the employer; (ii) access accounts provided by the employer or used for the employer's business purposes; (iii) discipline or discharge an employee for transferring the employer's proprietary or confidential information or financial data to an employee's personal internet account without the employer's authorization; and (iv) conduct investigations regarding activity on an employee's personal internet account to ensure compliance with applicable laws or prohibitions against work-related misconduct.

Educational institutions are similarly allowed to require a student to disclose information permitting access to: (i) an electronic device paid for by the educational institution; or (ii) an account or service provided by the educational institution, obtained by virtue of the student's admission to the educational institution or used by the student for educational purposes.

Any person who violates the Act is guilty of a misdemeanor punishable by a fine of not more than \$1,000. An aggrieved individual may bring a civil action to enjoin a violation of the Act and may recover not more than \$1,000 in damages plus reasonable attorney fees and court costs. Sixty days before filing an action, the individual must make a written demand for not more than \$1,000 to the person violating the Act. The employer or educational institution's compliance with federal or state law is an affirmative defense to an action.

Maryland, Illinois and California recently enacted similar laws.

If you have any questions regarding Michigan's *Internet Privacy Protection Act* contact Tracy A. Leahy at (313) 965-8533 or tleahy@clarkhill.com or another member of Clark Hill's Labor and Employment Practice Group or Education Practice Group.