

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 364
Economic Matters

(Delegate Tarrant, *et al.*)

Employment - Internet and Electronic Account Privacy Protection

This bill prohibits an employer, including the State and local governments, from requiring an employee or applicant for employment from disclosing a user name, password, or other means of accessing an Internet site or electronic account. It also bars an employer from requiring an employee to install software on a personal electronic device that monitors or tracks the content of that device. However, an employer may require an employee to disclose a user name, password, or other means of accessing the employer's internal computer or information systems. An employer may not penalize an employee or applicant for employment for refusing to disclose confidential information or install the forbidden software.

Fiscal Summary

State Effect: None. The practices forbidden by the bill are not part of the State's recruitment and hiring procedures.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: State law includes several prohibited practices that apply to employers' recruitment, hiring, and retention practices. Except for specified law enforcement and correctional positions, employees and applicants for employment may not be required by their employer or prospective employer to submit to or take a polygraph examination or

similar test as a condition of employment, prospective employment, or continued employment.

Subject to specified exceptions, an employer may not use an applicant's or employee's credit report or credit history in determining whether to deny employment to the applicant, discharge the employee, or determine compensation or terms of employment. Employers may request or use an applicant's or employee's credit report or credit history after an offer of employment has been extended and if (1) the information will not be used for a forbidden purpose; or (2) the employer has a bona fide purpose for requesting the information that is substantially job-related and disclosed in writing to the employee or applicant.

Background: Several companies offer a fee-based service that monitors the Twitter, Facebook, and other social media accounts of individuals by installing monitoring software on electronic devices. Though currently concentrated primarily on student-athletes in collegiate sports, such services could be used to monitor social media activity by employees. More than two dozen institutions, including the University of Louisville, Louisiana State University, and Texas A&M, have signed up with a social media monitoring company to monitor social media activity of their student-athletes.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, Judiciary (Administrative Office of the Courts), Maryland Association of Counties, Maryland Municipal League, Department of Legislative Services;

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