

HOUSE BILL 419

K3, E4
SB 851/22 – FIN

3lr2390
CF 3lr2393

By: **Delegate Smith**

Introduced and read first time: January 30, 2023

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – User Name and Password Privacy – Law Enforcement**
3 **Agencies**

4 FOR the purpose of authorizing certain law enforcement agencies to access, under certain
5 circumstances, social media accounts of applicants; and generally relating to user
6 name and password privacy and law enforcement agencies.

7 BY repealing and reenacting, with amendments,
8 Article – Labor and Employment
9 Section 3–712
10 Annotated Code of Maryland
11 (2016 Replacement Volume and 2022 Supplement)

12 BY repealing and reenacting, without amendments,
13 Article – Public Safety
14 Section 3–201(a) and (d)
15 Annotated Code of Maryland
16 (2022 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

Article – Labor and Employment

20 3–712.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) “Applicant” means an applicant for employment.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) (i) “Electronic communications device” means any device that uses
2 electronic signals to create, transmit, and receive information.

3 (ii) “Electronic communications device” includes computers,
4 telephones, personal digital assistants, and other similar devices.

5 (4) (i) “Employer” means:

6 1. a person engaged in a business, an industry, a profession,
7 a trade, or other enterprise in the State; or

8 2. a unit of State or local government.

9 (ii) “Employer” includes an agent, a representative, and a designee
10 of the employer.

11 **(5) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN §**
12 **3–201 OF THE PUBLIC SAFETY ARTICLE.**

13 (b) (1) Subject to paragraph (2) of this subsection, an employer may not
14 request or require that an employee or applicant disclose any user name, password, or other
15 means for accessing a personal account or service through an electronic communications
16 device.

17 (2) An employer may require an employee to disclose any user name,
18 password, or other means for accessing nonpersonal accounts or services that provide
19 access to the employer’s internal computer or information systems.

20 (c) An employer may not:

21 (1) discharge, discipline, or otherwise penalize or threaten to discharge,
22 discipline, or otherwise penalize an employee for an employee’s refusal to disclose any
23 information specified in subsection (b)(1) of this section; or

24 (2) fail or refuse to hire any applicant as a result of the applicant’s refusal
25 to disclose any information specified in subsection (b)(1) of this section.

26 (d) An employee may not download unauthorized employer proprietary
27 information or financial data to an employee’s personal Web site, an Internet Web site, a
28 Web-based account, or a similar account.

29 (e) This section does not prevent an employer:

30 (1) based on the receipt of information about the use of a personal Web site,
31 Internet Web site, Web-based account, or similar account by an employee for business
32 purposes, from conducting an investigation for the purpose of ensuring compliance with
33 applicable securities or financial law, or regulatory requirements; or

1 (2) based on the receipt of information about the unauthorized
2 downloading of an employer's proprietary information or financial data to a personal Web
3 site, Internet Web site, Web-based account, or similar account by an employee, from
4 investigating an employee's actions under subsection (d) of this section.

5 (f) (1) **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A LAW**
6 **ENFORCEMENT AGENCY MAY, DURING THE COURSE OF A BACKGROUND CHECK,**
7 **REQUIRE AN APPLICANT TO OPEN ALL OF THE APPLICANT'S SOCIAL MEDIA**
8 **ACCOUNTS FOR REVIEW BY AN INVESTIGATOR.**

9 (2) (i) **DURING A REVIEW OF THE APPLICANT'S SOCIAL MEDIA**
10 **ACCOUNTS, THE APPLICANT SHALL BE PRESENT.**

11 (ii) **AN INVESTIGATOR MAY PRINT SELECTIONS FROM THE**
12 **APPLICANT'S SOCIAL MEDIA ACCOUNTS ONLY IF THE SELECTIONS TO BE PRINTED**
13 **DO NOT CONTAIN A USER NAME, A PASSWORD, OR ANY OTHER MEANS FOR**
14 **ACCESSING A PERSONAL ACCOUNT OR SERVICE.**

15 (iii) **THE LAW ENFORCEMENT AGENCY MAY NOT:**

16 1. **KEEP OR RESERVE THE APPLICANT'S USER NAME,**
17 **PASSWORD, OR OTHER MEANS FOR ACCESSING A PERSONAL ACCOUNT OR SERVICE**
18 **THROUGH AN ELECTRONIC COMMUNICATIONS DEVICE; OR**

19 2. **PROHIBIT AN APPLICANT FROM CHANGING A USER**
20 **NAME, A PASSWORD, OR ANY OTHER MEANS FOR ACCESSING A PERSONAL ACCOUNT**
21 **OR SERVICE.**

22 (G) (1) Whenever the Commissioner determines that this section has been
23 violated, the Commissioner shall:

24 (i) try to resolve any issue involved in the violation informally by
25 mediation; or

26 (ii) ask the Attorney General to bring an action on behalf of the
27 applicant or employee.

28 (2) The Attorney General may bring an action under this subsection in the
29 county where the violation allegedly occurred for injunctive relief, damages, or other relief.

30 **Article – Public Safety**

1 (a) In this subtitle the following words have the meanings indicated.

2 (d) (1) "Law enforcement agency" means a governmental police force, sheriff's
3 office, or security force or law enforcement organization of the State, a county, or a
4 municipal corporation that by statute, ordinance, or common law is authorized to enforce
5 the general criminal laws of the State.

6 (2) "Law enforcement agency" does not include members of the Maryland
7 National Guard who:

8 (i) are under the control and jurisdiction of the Military
9 Department;

10 (ii) are assigned to the military property designated as the Martin
11 State Airport; and

12 (iii) are charged with exercising police powers in and for the Martin
13 State Airport.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2023.