

By: Giddings

H.B. No. 318

A BILL TO BE ENTITLED

AN ACT

1
2 relating to employer access to the personal accounts of certain
3 employees and job applicants through electronic communication
4 devices; establishing an unlawful employment practice.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter B, Chapter 21, Labor Code, is amended
7 by adding Section 21.0605 to read as follows:

8 Sec. 21.0605. REQUIRING OR REQUESTING PERSONAL ACCOUNT
9 ACCESS. (a) In this section, "electronic communication device"
10 includes a computer, telephone, personal digital assistant, or
11 similar device that uses electronic signals to create, transmit,
12 and receive information.

13 (b) An employer, other than a state or local law enforcement
14 agency, commits an unlawful employment practice if the employer
15 requires or requests that an employee or applicant for employment
16 disclose a user name, password, or other means for accessing a
17 personal account of the employee or applicant, including a personal
18 e-mail account or a social networking website account or profile,
19 through an electronic communication device.

20 (c) This section does not prohibit an employer from:

21 (1) maintaining lawful workplace policies governing:
22 (A) employee usage of employer-provided
23 electronic communication devices, including employee access to
24 personal accounts on those devices; or

1 (B) employee usage of personal electronic
2 communication devices during working hours;

3 (2) monitoring employee usage of employer-provided
4 electronic communication devices or employer-provided e-mail
5 accounts; or

6 (3) obtaining information about an employee or
7 applicant for employment that is in the public domain or that is
8 otherwise lawfully obtained.

9 (d) This section does not apply to a personal social media
10 account or an electronic communication device of a financial
11 services employee who uses the account or device to conduct
12 business of the employer that is subject to the content,
13 supervision, and retention requirements imposed by federal
14 securities laws and regulations or by a self-regulatory
15 organization, as defined by Section 3(a)(26), Securities Exchange
16 Act of 1934 (15 U.S.C. Section 78c).

17 (e) This section does apply if an employer and an employee
18 of the employer have entered into a contractual agreement under
19 which the employee consents to the disclosure of a user name,
20 password, or other means of accessing a personal account of the
21 employee through an electronic communication device.

22 SECTION 2. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2013.