

SENATE No. 852

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia S. Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to social media privacy protection.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Brian R. Mannel</i>	<i>2nd Barnstable</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Ryan C. Fattman</i>	<i>18th Worcester</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>

SENATE No. 852

By Ms. Creem, a petition (accompanied by bill, Senate, No. 852) of Cynthia S. Creem, William N. Brownsberger, Kay Khan, Martha M. Walz and other members of the General Court for legislation relative to employees social media privacy protection. Labor and Workforce Development.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to social media privacy protection.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 149 of the General Laws is hereby amended by adding the
2 following section:-

3 Section 189. It shall be unlawful for any employer to:

4 (a) require, request, suggest, or cause an employee or applicant to disclose a user name,
5 password or any other means for access, or provide access through a user name or password, to a
6 personal social media account or service;

7 (b) compel an employee or applicant, as a condition of employment or consideration for
8 employment, to add anyone, including the employer or their agent, to the employee or
9 applicant’s list of contacts associated with a personal social media account or service; or

10 (c) take or threaten any adverse action against an employee or applicant for refusing to
11 disclose any information specified in clause (a) of this section or for refusing to add the employer
12 to a list of contacts associated with a social media account or service, as specified in clause (b) of
13 this section.

14 “Social media” means an electronic medium allowing users to create, share, and view
15 user-generated content, including, but not limited to, uploading or downloading videos or still
16 photographs, blogs, video blogs, podcasts, messages, e-mails, or Internet Web site profiles or
17 locations.

18 This section shall not apply to: (1) any social media account or service opened for or
19 provided by an employer and intended solely for professional purposes; or (2) information about
20 an employee or applicant that is in the public domain.

21 SECTION 2. Chapter 71 of the General Laws, as appearing in the 2010 Official Edition,
22 is hereby amended by inserting after section 93 the following new section:-

23 Section 94. It shall be unlawful for any public or private institution providing
24 elementary, secondary, or higher education to:

25 (a) require, request, suggest, or cause a student or applicant to disclose a user name,
26 password or any other means for access, or provide access through a user name or password, to a
27 personal social media account or service;

28 (b) compel a student or applicant, as a condition of acceptance or participation in
29 curricular or extracurricular activities, to add anyone, including a coach, teacher, school
30 administrator, or other school employee or school volunteer, to the student or applicant's list of
31 contacts associated with a personal social media account or service; or

32 (c) take or threaten any adverse action against a student or applicant, including restraining
33 his or her participation in extracurricular activities, for refusing to disclose any information
34 specified in clause (a) of this section or for refusing to add a coach, teacher, school administrator,
35 or other school employee or school volunteer to a list of contacts associated with a social media
36 account or service, as specified in clause (b) of this section.

37 "Social media" means an electronic medium allowing users to create, share, and view
38 user-generated content, including, but not limited to, uploading or downloading videos or still
39 photographs, blogs, video blogs, podcasts, messages, e-mails, or Internet Web site profiles or
40 locations.

41 This section shall not apply to: (1) any social media account or service opened for or
42 provided by an educational institution and intended solely for educational purposes; or (2)
43 information about an employee or applicant that is in the public domain.

44 Any aggrieved student or prospective student may institute a civil action for damages or
45 to restrain any violation of this section and shall be entitled to recover liquidated damages
46 computed at the rate of \$1000 per improper request under subsection (a) or (b) or any adverse
47 action is found under subsection (c) or actual damages, whichever amount is higher; punitive
48 damages when a willful violation is found; and reasonable attorneys' fees and other litigation
49 costs reasonably incurred.