

As Introduced

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H. B. No. 424

Representatives Bishoff, Hackett

Cosponsors: Representatives Becker, Derickson, Milkovich, Reece, Terhar

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A B I L L

To amend section 4113.99 and to enact sections 1
4113.35 to 4113.39 of the Revised Code to prohibit 2
employers and educational institutions from 3
requiring an employee, applicant, student, or 4
prospective student to provide access to any 5
personal Internet account of the employee, 6
applicant, student, or prospective student. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4113.99 be amended and sections 8
4113.35, 4113.36, 4113.37, 4113.38, and 4113.39 of the Revised 9
Code be enacted to read as follows: 10

Sec. 4113.35. As used in sections 4113.35 to 4113.39 of the 11
Revised Code: 12

(A) "Access information" means a user name, password, login 13
information, or other security information that protects access to 14
a personal internet-based account or electronic device. 15

(B) "Educational institution" means a public or private 16
educational institution and each separate school of a public or 17
private educational institution, and includes all of the 18
following: 19

<u>(1) A state institution of higher education as defined in</u>	20
<u>section 3345.011 of the Revised Code;</u>	21
<u>(2) A private, nonprofit institution in this state holding a</u>	22
<u>certificate of authorization pursuant to Chapter 1713. of the</u>	23
<u>Revised Code;</u>	24
<u>(3) A career college in this state that holds a certificate</u>	25
<u>of registration from the state board of career colleges and</u>	26
<u>schools under Chapter 3332. of the Revised Code;</u>	27
<u>(4) A private institution exempt from regulation under</u>	28
<u>Chapter 3332. of the Revised Code as prescribed in section</u>	29
<u>3333.046 of the Revised Code, if the program has a certificate of</u>	30
<u>authorization issued pursuant to Chapter 1713. of the Revised</u>	31
<u>Code;</u>	32
<u>(5) A school operated by a board of education or an</u>	33
<u>educational service center;</u>	34
<u>(6) A community school established under Chapter 3314. of the</u>	35
<u>Revised Code;</u>	36
<u>(7) A STEM school established under Chapter 3326. of the</u>	37
<u>Revised Code;</u>	38
<u>(8) A college preparatory boarding school established under</u>	39
<u>Chapter 3328. of the Revised Code;</u>	40
<u>(9) A chartered nonpublic school;</u>	41
<u>(10) A nonchartered nonpublic school;</u>	42
<u>(11) A career-technical center, joint vocational school</u>	43
<u>district, comprehensive career-technical center, or compact</u>	44
<u>career-technical center;</u>	45
<u>(12) An educational testing service.</u>	46
<u>(C) "Employer" has the same meaning as in section 4113.51 of</u>	47
<u>the Revised Code.</u>	48

(D) "Internet-based account" means an account created within 49
a bounded, internet-based system that requires an individual to 50
use an electronic device to view, create, utilize, or edit the 51
individual's account information, profile, display, 52
communications, or other stored data. 53

Sec. 4113.36. No employer shall do either of the following: 54

(A) Ask or require an employee or an applicant for employment 55
to grant access to, allow observation of, or provide access 56
information to the employee's or applicant's personal 57
internet-based account; 58

(B) Discharge, discipline, fail to hire, or otherwise 59
penalize an employee or an applicant for employment for failing or 60
refusing to grant access to, allow observation of, or provide 61
access information to the employee's or applicant's personal 62
internet-based account. 63

Sec. 4113.37. No educational institution shall do either of 64
the following: 65

(A) Ask or require a student or prospective student to grant 66
access to, allow observation of, or provide access information to 67
the employee's or applicant's personal internet-based account; 68

(B) Expel, discipline, fail or refuse to admit, or otherwise 69
penalize a student or prospective student for failure to grant 70
access to, allow observation of, or provide access information to 71
the student's or prospective student's personal internet-based 72
account. 73

Sec. 4113.38. (A) Nothing in section 4113.36 of the Revised 74
Code shall be construed to prohibit an employer from doing any of 75
the following: 76

(1) Requesting or requiring an employee to disclose access 77

<u>information to allow the employer to gain access to or operate</u>	78
<u>either of the following:</u>	79
<u>(a) An electronic communication device paid for in whole or</u>	80
<u>in part by the employer;</u>	81
<u>(b) An internet-based account or other service provided by</u>	82
<u>the employer, obtained by virtue of the employee's employment</u>	83
<u>relationship with the employer or used for the employer's business</u>	84
<u>purposes.</u>	85
<u>(2) Disciplining or discharging an employee for transferring</u>	86
<u>the employer's proprietary, confidential, or financial information</u>	87
<u>to an employee's personal internet-based account without the</u>	88
<u>employer's authorization;</u>	89
<u>(3) Conducting an investigation or requiring an employee to</u>	90
<u>cooperate in an investigation in either of the following</u>	91
<u>circumstances:</u>	92
<u>(a) The employer has specific information about activity on</u>	93
<u>the employee's personal internet-based account and must conduct</u>	94
<u>the investigation to ensure compliance with applicable laws,</u>	95
<u>regulations, or other prohibitions against work-related employee</u>	96
<u>misconduct.</u>	97
<u>(b) The employer has specific information about an</u>	98
<u>unauthorized transfer of the employer's proprietary, confidential,</u>	99
<u>or financial information to an employee's personal internet-based</u>	100
<u>account.</u>	101
<u>(4) Restricting or prohibiting an employee's access to</u>	102
<u>certain web sites while using an electronic communication device</u>	103
<u>paid for in whole or in part by the employer or while using the</u>	104
<u>employer's network or resources, in accordance with state or</u>	105
<u>federal law;</u>	106
<u>(5) Monitoring, reviewing, or accessing electronic data that</u>	107

is stored on an electronic communication device paid for in whole 108
or in part by the employer or that is traveling through or stored 109
on an employer's network, in accordance with state or federal law; 110

(6) Complying with a duty that is established under state or 111
federal law or by a self-regulatory organization, as that term is 112
defined in section 3 of the "Securities Exchange Act of 1934," 48 113
Stat. 881, 15 U.S.C. 78c, as amended, to screen an employee or an 114
applicant prior to hiring or to monitor or retain employee 115
communications; 116

(7) Viewing, accessing, or utilizing information about an 117
employee or applicant for employment that can be obtained without 118
the employee's or applicant's access information or that is 119
available in the public domain. 120

(B) Nothing in section 4113.37 of the Revised Code shall be 121
construed to prohibit an educational institution from doing either 122
of the following: 123

(1) Requesting or requiring a student to disclose access 124
information to allow the educational institution to gain access to 125
or operate either of the following: 126

(a) An electronic communication device paid for in whole or 127
in part by the educational institution; 128

(b) An account or service provided by the educational 129
institution that is either obtained by virtue of the student's 130
admission to the educational institution or is used by the student 131
for the institution's educational purposes. 132

(2) Viewing, accessing, or utilizing information about a 133
student or prospective student that can be obtained without the 134
student's or prospective student's access information or that is 135
available in the public domain. 136

Sec. 4113.39. (A) Except as provided in division (B) of this 137

section, an individual who is the subject of an alleged violation 138
of section 4113.36 or 4113.37 of the Revised Code may bring an 139
action in the court of common pleas in the county where the 140
alleged violation occurred or where the person alleged to have 141
committed the violation resides to enjoin the violation and to 142
recover up to one thousand dollars in damages, plus reasonable 143
attorney's fees and court costs. 144

(B) No individual may bring an action pursuant to division 145
(A) of this section until the individual has made a written demand 146
of the alleged violator in accordance with this division. An 147
individual shall make a written demand at least sixty days before 148
filing an action under division (A) of this section. The 149
individual shall make the written demand for not more than one 150
thousand dollars and shall include reasonable documentation of the 151
alleged violation in the written demand. The individual shall 152
serve the written demand by certified mail to the address of the 153
alleged violator at the alleged violator's residence, principal 154
office, or place of business or by any other means permitted by 155
the Rules of Civil Procedure for service of process. 156

(C) It is an affirmative defense to an action under this 157
section that an employer or educational institution that allegedly 158
committed a violation of section 4113.36 or 4113.37 of the Revised 159
Code acted to comply with requirements of a federal or state law. 160

Sec. 4113.99. (A) Whoever violates section 4113.15 of the 161
Revised Code is guilty of a misdemeanor of the first degree. 162

(B) Whoever violates section 4113.16, 4113.18, or 4113.19 of 163
the Revised Code is guilty of a minor misdemeanor. 164

(C) Whoever violates section 4113.17 of the Revised Code is 165
guilty of a minor misdemeanor for a first offense; for each 166
subsequent offense such person is guilty of a misdemeanor in the 167

fourth degree. 168

(D) Whoever violates section 4113.36 or 4113.37 of the 169
Revised Code is guilty of a misdemeanor in the first degree and 170
shall be fined not more than one thousand dollars. 171

Section 2. That existing section 4113.99 of the Revised Code 172
is hereby repealed. 173