

SENATE BILL 851

K3, E4

2lr2652

By: **Senator Carter (By Request – Baltimore City Administration)**

Introduced and read first time: February 7, 2022

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of exempting certain law enforcement agencies from the prohibition
5 against employers requiring employees or applicants to disclose the means for
6 accessing a personal account or service through an electronic communications device;
7 and generally relating to user name and password privacy and law enforcement
8 agencies.

9 BY repealing and reenacting, with amendments,
10 Article – Labor and Employment
11 Section 3–712
12 Annotated Code of Maryland
13 (2016 Replacement Volume and 2021 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Public Safety
16 Section 3–201(a) and (d)
17 Annotated Code of Maryland
18 (2018 Replacement Volume and 2021 Supplement)

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

21 **Article – Labor and Employment**

22 3–712.

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

(4) (i) “Employer” means:

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

2. a unit of State or local government.

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

(III) “EMPLOYER” DOES NOT INCLUDE A LAW ENFORCEMENT AGENCY AS DEFINED IN § 3-201 OF THE PUBLIC SAFETY ARTICLE.

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

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

(c) An employer may not:

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

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

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

(e) This section does not prevent an employer:

(1) based on the receipt of information about the use of a personal Web site, Internet Web site, Web-based account, or similar account by an employee for business

1 purposes, from conducting an investigation for the purpose of ensuring compliance with
2 applicable securities or financial law, or regulatory requirements; or

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

7 (f) (1) Whenever the Commissioner determines that this section has been
8 violated, the Commissioner shall:

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

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

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

15 Article – Public Safety

16 3–201.

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

18 (d) (1) “Law enforcement agency” means a governmental police force, sheriff's
19 office, or security force or law enforcement organization of the State, a county, or a
20 municipal corporation that by statute, ordinance, or common law is authorized to enforce
21 the general criminal laws of the State.

22 (2) “Law enforcement agency” does not include members of the Maryland
23 National Guard who:

24 (i) are under the control and jurisdiction of the Military
25 Department;

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

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2022.