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# A BILL FOR AN ACT

RELATING TO SOCIAL MEDIA.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that existing law  
2 generally regulates the conduct of employers in the State.  
3           The purpose of this Act is to prohibit an employer from  
4 requiring or requesting an employee or applicant for employment  
5 to disclose a username or password for the purpose of obtaining  
6 access to the employee's or applicant's social media accounts.  
7 This Act also prohibits an employer from discharging,  
8 disciplining, threatening to discharge or discipline, or  
9 otherwise retaliating against an employee or applicant for not  
10 complying with a request or demand by the employer that violates  
11 these provisions.

12           SECTION 2. Chapter 378, Hawaii Revised Statutes, is  
13 amended by adding a new section to part I to be appropriately  
14 designated and to read as follows:

15           "§378-     Employer access to employee personal media  
16 prohibited. (a) An employer shall not require or request an  
17 employee or applicant for employment to do any of the following:



1       (1) Disclose a username or password for the purpose of  
2       accessing the employee's or applicant's personal  
3       account;

4       (2) Access the employee's or applicant's personal account  
5       in the presence of the employer; or

6       (3) Divulge any information in a personal account, except  
7       as provided in subsection (b).

8       (b) Nothing in this section shall preclude an employer  
9       from conducting an investigation or requiring that an employee  
10       cooperate in an investigation under the following circumstances  
11       where an employer:

12       (1) Has received specific information about an employee's  
13       use of a personal account for business purposes to  
14       ensure compliance with applicable laws, regulatory  
15       requirements, or prohibitions against business-related  
16       employee misconduct; or

17       (2) Has specific information about the unauthorized  
18       transfer of the employer's proprietary information,  
19       confidential information, or financial data to an  
20       employee's personal account.

21       (c) Nothing in this section shall preclude an employer  
22       from requiring or requesting an employee to disclose a username



1 or password for the purpose of accessing an employer-issued  
2 electronic device.

3 (d) An employer shall not be held liable for failure to  
4 request or require that an employee or applicant disclose any  
5 information specified in subsection (a)(1).

6 (e) An employer shall not discharge, discipline, threaten  
7 to discharge or discipline, or retaliate against an employee or  
8 applicant for not complying with a request or demand by the  
9 employer that violates this section; provided that this section  
10 shall not prohibit an employer from terminating or taking an  
11 adverse action against an employee or applicant if otherwise  
12 permitted by law.

13 (f) As used in this section, "personal account" means an  
14 account, service, or profile on a social networking website that  
15 is used by a current or prospective employee exclusively for  
16 personal communications unrelated to any business purposes of  
17 the employer. This definition shall not apply to any account,  
18 service, profile, or electronic mail created, maintained, used,  
19 or accessed by a current or prospective employee for business  
20 purposes of the employer or to engage in business related  
21 communications."



1           SECTION 3. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4           SECTION 4. New statutory material is underscored.

5           SECTION 5. This Act shall take effect upon its approval.

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**Report Title:**

Social Media; Password; Username; Privacy; Employer; Employee;  
Employment

**Description:**

Prohibits employers from requiring employees and applicants for employment to disclose their personal account usernames or passwords, divulge information in a personal account, or access a personal account in the presence of the employer. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

