
A BILL FOR AN ACT

RELATING TO SOCIAL MEDIA.

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

1 SECTION 1. Chapter 378, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§378- Employer access to employee or potential employee
5 personal accounts prohibited. (a) An employer shall not
6 require or request an employee or potential employee to do any
7 of the following:

8 (1) Disclose a username and password for the purpose of
9 accessing the employee or potential employee's
10 personal account;

11 (2) Access the employee or potential employee's personal
12 account in the presence of the employer; or

13 (3) Divulge information from any personal account, except
14 as provided in subsection (b).

15 (b) Nothing in this section shall preclude an employer
16 from conducting an investigation:

17 (1) For the purposes of ensuring compliance with
18 applicable laws, regulatory requirements, or



1 prohibitions against work-related employee misconduct
2 based on the receipt of specific information about
3 activity on a personal online account or service by an
4 employee or other source; or

5 (2) Of an employee's actions based on the receipt of
6 specific information about the unauthorized transfer
7 of an employer's proprietary information, confidential
8 information, or financial data to a personal online
9 account or personal online service by an employee or
10 other source.

11 Conducting an investigation as specified in paragraphs (1) and
12 (2) includes requiring the employee's cooperation to share the
13 content that has been reported in order to make a factual
14 determination.

15 (c) Nothing in this section shall be construed to prevent
16 an employer from complying with the requirements of state or
17 federal statutes, rules, regulations, or case law, or rules of
18 self-regulatory organizations.

19 (d) Nothing in this section shall preclude an employer
20 from requiring or requesting an employee to disclose a username
21 or password for the purpose of accessing:



1 (1) Any electronic communications device supplied or paid
2 for in whole or in part by the employer; or

3 (2) Any accounts or services provided by the employer or
4 by virtue of the employee's employment relationship
5 with the employer or that the employee uses for
6 business purposes.

7 (e) An employer shall not be liable for failure to request
8 or require that an employee or potential employee disclose any
9 information specified in subsection (a) (1) or this section.

10 (f) Nothing in this section shall prohibit an employer
11 from monitoring, reviewing, accessing, or blocking electronic
12 data stored on an electronic communications device paid for in
13 whole or in part by the employer, or traveling through or stored
14 on an employer's network, in compliance with state and federal
15 law.

16 (g) An employer shall not discharge, discipline, threaten
17 to discharge or discipline, or retaliate against an employee or
18 potential employee for not complying with a request or demand by
19 the employer that violates this section; provided that this
20 section shall not prohibit an employer from terminating or
21 taking an adverse action against an employee or potential
22 employee if otherwise permitted by law.



1 (h) As used in this section, "personal account" means an
2 account, service, or profile on a social networking website that
3 is used by an employee or potential employee exclusively for
4 personal communications unrelated to any business purposes of
5 the employer. This definition shall not apply to any account,
6 service, profile, or electronic mail created, maintained, used,
7 or accessed by an employee or potential employee for business
8 purposes of the employer or to engage in business-related
9 communications."

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

13 SECTION 3. New statutory material is underscored.

14 SECTION 4. This Act shall take effect on January 1, 2100.



Report Title:

Personal Account; Privacy; Employment

Description:

Prohibits employers from requiring or requesting employees and potential employees to grant access to personal account usernames and passwords. Effective January 1, 2100. (SD1)

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