
A BILL FOR AN ACT

RELATING TO EMPLOYMENT.

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

1 SECTION 1. Section 378-1, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Personal account" means an account, service, or profile
5 on a social networking website that is used by an employee or
6 potential employee exclusively for personal communications
7 unrelated to any business purposes of the employer."

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

11 "§378- Employer access to employee or potential employee
12 personal accounts prohibited. (a) An employer shall not
13 require, request, or coerce an employee or potential employee to
14 do any of the following:

15 (1) Disclose the username, password, or any other
16 information for the purpose of accessing the employee
17 or potential employee's personal account;



H.B. NO. 1739

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

3 (3) Add anyone, including the employer, to their list of
4 contacts associated with a personal account.

5 (b) Nothing in this section shall prevent an employer

6 from:

7 (1) Accessing information about an employee or potential
8 employee that is publicly available;

9 (2) Complying with applicable laws, rules, or regulations;

10 (3) Requesting the employee to share specific content
11 regarding a personal account for the purposes of
12 conducting an investigation of allegations of employee
13 misconduct under chapter 378;

14 (4) Requiring an employee to disclose the username or
15 password for the purpose of accessing an employer-
16 issued electronic device; or

17 (5) Prohibiting an employee or potential employee from
18 using a personal account during employment hours,
19 while on employer time, or for business purposes.

20 (c) If an employer inadvertently receives the username,
21 password, or any other information that would enable the



1 employer to gain access to the employee or potential employee's
2 personal account through the use of an otherwise lawful virus
3 scan or firewall that monitors the employer's network or
4 employer-provided devices, then the employer is not liable for
5 having that information, unless the employer:

- 6 (1) Shares that information with anyone;
- 7 (2) Uses that information to access the employee or
8 potential employee's personal account; or
- 9 (3) Does not delete the information as soon as reasonably
10 practicable."

11 SECTION 3. Section 378-2, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) It shall be an unlawful discriminatory practice:

- 14 (1) Because of race, sex including gender identity or
15 expression, sexual orientation, age, religion, color,
16 ancestry, disability, marital status, arrest and court
17 record, or domestic or sexual violence victim status
18 if the domestic or sexual violence victim provides
19 notice to the victim's employer of such status or the
20 employer has actual knowledge of such status:



H.B. NO. 1739

- 1 (A) For any employer to refuse to hire or employ or
2 to bar or discharge from employment, or otherwise
3 to discriminate against any individual in
4 compensation or in the terms, conditions, or
5 privileges of employment;
- 6 (B) For any employment agency to fail or refuse to
7 refer for employment, or to classify or otherwise
8 to discriminate against, any individual;
- 9 (C) For any employer or employment agency to print,
10 circulate, or cause to be printed or circulated
11 any statement, advertisement, or publication or
12 to use any form of application for employment or
13 to make any inquiry in connection with
14 prospective employment, that expresses, directly
15 or indirectly, any limitation, specification, or
16 discrimination;
- 17 (D) For any labor organization to exclude or expel
18 from its membership any individual or to
19 discriminate in any way against any of its
20 members, employer, or employees; or



- 1 (E) For any employer or labor organization to refuse
2 to enter into an apprenticeship agreement as
3 defined in section 372-2; provided that no
4 apprentice shall be younger than sixteen years of
5 age;
- 6 (2) For any employer, labor organization, or employment
7 agency to discharge, expel, or otherwise discriminate
8 against any individual because the individual has
9 opposed any practice forbidden by this part or has
10 filed a complaint, testified, or assisted in any
11 proceeding respecting the discriminatory practices
12 prohibited under this part;
- 13 (3) For any person, whether an employer, employee, or not,
14 to aid, abet, incite, compel, or coerce the doing of
15 any of the discriminatory practices forbidden by this
16 part, or to attempt to do so;
- 17 (4) For any employer to violate the provisions of section
18 121-43 relating to nonforfeiture for absence by
19 members of the national guard;
- 20 (5) For any employer to refuse to hire or employ or to bar
21 or discharge from employment any individual because of



1 assignment of income for the purpose of satisfying the
2 individual's child support obligations as provided for
3 under section 571-52;

4 (6) For any employer, labor organization, or employment
5 agency to exclude or otherwise deny equal jobs or
6 benefits to a qualified individual because of the
7 known disability of an individual with whom the
8 qualified individual is known to have a relationship
9 or association;

10 (7) For any employer or labor organization to refuse to
11 hire or employ, bar or discharge from employment,
12 withhold pay from, demote, or penalize a lactating
13 employee because the employee breastfeeds or expresses
14 milk at the workplace. For purposes of this
15 paragraph, the term "breastfeeds" means the feeding of
16 a child directly from the breast;

17 (8) For any employer to refuse to hire or employ, bar or
18 discharge from employment, or otherwise to
19 discriminate against any individual in compensation or
20 in the terms, conditions, or privileges of employment
21 of any individual because of the individual's credit



1 history or credit report, unless the information in
 2 the individual's credit history or credit report
 3 directly relates to a bona fide occupational
 4 qualification under section 378-3(2); [~~or~~]

5 (9) For any employer to discriminate against any
 6 individual employed as a domestic, in compensation or
 7 in terms, conditions, or privileges of employment
 8 because of the individual's race, sex including gender
 9 identity or expression, sexual orientation, age,
 10 religion, color, ancestry, disability, or marital
 11 status [~~-~~]; or

12 (10) For any employer to refuse to hire or employ, bar or
 13 discharge from employment, or otherwise to
 14 discriminate against any individual in compensation or
 15 in the terms, conditions, or privileges of employment
 16 of any individual because of the individual's refusal
 17 to disclose any information regarding a personal
 18 account according to section 378- (a)."



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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

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H.B. NO. 1739

Report Title:

Personal Account; Privacy; Employment

Description:

Prohibits employers from requiring, requesting, or coercing employees or potential employees to provide access to their personal accounts.

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