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# A BILL FOR AN ACT

RELATING TO EMPLOYMENT.

**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 part to be appropriately designated and  
3 to read as follows:

4                       "PART       .   EMPLOYEE PERSONAL SOCIAL MEDIA

5           §378-   Employer access to employee or potential employee  
6 personal accounts prohibited. (a) An employer shall not:

7           (1) Require, request, or coerce an employee or potential  
8 employee to disclose the username, password, or any  
9 other information for the purpose of accessing the  
10 employee's or potential employee's personal account;

11           (2) Require, request, or coerce an employee or potential  
12 employee to provide access to the employee's or  
13 potential employee's personal account in the presence  
14 of the employer; or

15           (3) Coerce or compel an employee or potential employee to  
16 add anyone, including the employer, to the employee's  
17 or potential employee's list of contacts associated  
18 with a personal account.



- 1 (b) Nothing in this section shall prevent an employer  
2 from:
- 3 (1) Accessing information about an employee or potential  
4 employee that is publicly available;
- 5 (2) Complying with applicable laws, rules, or regulations;
- 6 (3) Requiring an employee to disclose a username or  
7 password or similar authentication information for the  
8 purpose of accessing:
- 9 (A) An employer-issued electronic device; or
- 10 (B) An account or service provided by the employer,  
11 obtained by virtue of the employee's employment  
12 relationship with the employer, or used for the  
13 employer's business purposes;
- 14 (4) Conducting an investigation or requiring an employee  
15 to cooperate in an investigation, including by  
16 requiring an employee to share the content that has  
17 been reported to make a factual determination, if the  
18 employer has specific information about an  
19 unauthorized transfer of the employer's proprietary  
20 information, confidential information, or financial  
21 data, to an employee's personal account;



1 (5) Prohibiting an employee or potential employee from  
2 using a personal account during employment hours,  
3 while on employer time, or for business purposes; or

4 (6) Requesting or requiring an employee to share content  
5 regarding a personal account necessary to ensure  
6 compliance with applicable laws, regulatory  
7 requirements, or prohibitions against work-related  
8 employee misconduct.

9 (c) If an employer inadvertently receives the username,  
10 password, or any other information that would enable the  
11 employer to gain access to the employee's or potential  
12 employee's personal account through the use of lawful technology  
13 that monitors the employer's network or employer-provided  
14 devices for network security or data confidentiality purposes,  
15 then the employer is not liable for having that information;  
16 provided that the employer:

17 (1) Does not share that information with a person who uses  
18 that information to access the employee's or potential  
19 employee's personal account; and



1           (2) Does not use that information, or enable a third party  
2           to use that information, to access the employee's or  
3           potential employee's personal account.

4           (d) Nothing in this section shall diminish the authority  
5 and obligation of an employer to investigate complaints,  
6 allegations, or the occurrence of sexual, racial, or other  
7 harassment as provided under this chapter.

8           (e) As used in this section, "personal account" means an  
9 account, service, or profile on a social networking website that  
10 is used by an employee or potential employee exclusively for  
11 personal communications unrelated to any business purposes of  
12 the employer.

13           (f) An employer found in violation of this part shall be  
14 subject to a fine of not less than \$25 and not more than \$100,  
15 to be collected by the director of labor and industrial  
16 relations; and the fine shall not be suspended."

17           SECTION 2. This Act shall take effect upon its approval.



**Report Title:**

Personal Account; Privacy; Employment; Social Media

**Description:**

Prohibits employers from requiring, requesting, or coercing employees or potential employees to provide access to their personal social media accounts, subject to certain exemptions.  
(HB1739 CD1)

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