

HOUSE BILL NO. 284

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES JOSEPHSON, Kito, Tuck

Introduced: 1/29/16

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to social media privacy of employees and applicants for employment;**
2 **and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 23.10 is amended by adding a new section to article 1 to read:

5 **Sec. 23.10.039. Employee personal social media accounts.** (a) Except as
6 provided in (d) - (g) of this section, an employer may not request, require, or compel a
7 person who is an employee or applicant to

8 (1) disclose the person's username, password, or other means of
9 authentication for the person's personal social media account;

10 (2) provide access to the person's personal social media account
11 through the person's username, password, or other means of authentication;

12 (3) access the person's personal social media account in the presence of
13 the employer in a manner that enables the employer to observe the contents of the
14 account;

1 (4) add a person to the list of contacts associated with the person's
2 personal social media account;

3 (5) change the settings that affect a third party's ability to view the
4 contents of the person's personal social media account; or

5 (6) compel another to comply with a requirement prohibited by this
6 section.

7 (b) An employer may not discipline or penalize an employee or an applicant
8 for not

9 (1) complying with a requirement prohibited by (a) of this section; or

10 (2) compelling or attempting to compel another employee or applicant
11 to comply with a requirement prohibited by (a) of this section.

12 (c) If an employer inadvertently receives the username, password, or other
13 means of authentication for an employee's or applicant's personal social media account
14 in violation of (a) of this section, through an otherwise lawful use of a virus scan or
15 firewall that monitors the employer's network or electronic devices provided by the
16 employer, the employer is not liable for damages in a civil proceeding or subject to
17 criminal prosecution for receiving the information. The employer may not share the
18 information received under this subsection or use the information to access an
19 employee's or applicant's social media account. The employer shall delete the
20 information as soon as reasonably practicable.

21 (d) Nothing in this section prohibits an employer from obtaining access to
22 publicly available information about an employee or applicant.

23 (e) An employer may request or require that an employee or applicant share
24 specific, identifiable data or information that has been reported to the employer if

25 (1) the employer does not take an action described in (a) or (b) of this
26 section; and

27 (2) the request or requirement is necessary to

28 (A) ensure compliance with applicable laws or regulations; or

29 (B) investigate an allegation, based on specific information
30 received by the employer that

31 (i) information proprietary or confidential to the

1 employer, including private financial information, has been transferred
2 to the employee's or applicant's social media account without express
3 permission from the employer; or

4 (ii) the employee or applicant unlawfully harassed
5 another employee.

6 (f) An employer may prohibit an employee from accessing or using a personal
7 social media account during the employee's work hours or with equipment provided
8 by the employer.

9 (g) An employer who violates this section is liable in a civil action for actual
10 damages, including mental pain and suffering, and equitable relief, plus costs and
11 reasonable attorney fees, to a person injured by the employer's conduct.

12 (h) Unless prohibited by the terms of a collective bargaining agreement, an
13 employee who voluntarily acts on an employer's behalf to cause the employer to
14 violate this section may be subject to employee discipline.

15 (i) In this section,

16 (1) "applicant" means a person who has applied to be an employer's
17 employee;

18 (2) "employee" means a natural person who is employed full time or
19 part time by an employer for wages or as a contractor, intern, or volunteer;

20 (3) "employer" means a

21 (A) public employer as defined in AS 23.40.250;

22 (B) person who employs one or more employees;

23 (4) "personal social media account" means an account with a provider
24 of electronic communication services in which a user may create, share, and view
25 user-generated content, including uploading or downloading videos or photographs,
26 blogs, video blogs, podcasts, messages, electronic mail, or Internet website profiles or
27 locations; a personal social media account does not include an account

28 (A) opened at the request of the employer;

29 (B) provided by the employer; or

30 (C) intended to be used solely on behalf of the employer;

31 (5) "username" means a series of characters used to identify a person

1 to allow access to a personal social media account.

2 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 **APPLICABILITY.** AS 23.10.039, enacted by sec. 1 of this Act, applies to contracts
5 entered into after the effective date of this Act.

6 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).