

SENATE BILL NO. 195

INTRODUCED BY A. BLEWETT

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A BILL FOR AN ACT ENTITLED: "AN ACT PROTECTING PRIVATE INFORMATION AND PERSONAL ACCOUNTS, INCLUDING SOCIAL MEDIA ACCOUNTS, LOCATED ON THE ELECTRONIC COMMUNICATION DEVICES OF JOB APPLICANTS AND EMPLOYEES; AND PROVIDING DEFINITIONS, RESTRICTIONS, AND EXCEPTIONS."

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

NEW SECTION. **Section 1. Purpose -- intent.** (1) The intent of the legislature and the purpose of [sections 1 through 4] is to protect personal accounts and private information on the electronic communication devices of applicants and employees while protecting an employer's access to information that is otherwise public or proprietary.

(2) [Sections 1 through 4] do not prevent the use of a personal account by an employee for purposes related to or in conjunction with the employer's business.

(3) The legislature does not intend to prohibit law enforcement from conducting investigations into illegal activity in order to ensure compliance with applicable laws.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 4], the following definitions apply:

- (1) "Applicant" means a person applying for employment.
- (2) "Electronic communication device" means any device that uses electronic signals to create, transmit, or receive information, including computers, telephones, personal digital assistants, and any other similar device.
- (3) "Employment" means the relationship between the employer and employee established in 39-2-101.
- (4) "Personal account" means any password-protected information accessed via an electronic communication device, either online or offline, including but not limited to media such as text, audio, video, images, programs, or services.
- (5) "Privacy settings" means the settings associated with a personal account that regulate the amount of information that the account holder makes publicly available.

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2 **NEW SECTION. Section 3. Restrictions.** Except as provided in [section 4], an employer, an employer's
3 agent, or an employer's representative may not:

4 (1) require an employee or applicant to:

5 (a) disclose the user name, password, or any other means of access to a personal account;

6 (b) disclose any information not publicly available that is protected by a password on a personal account;

7 (c) add any person or any other person's personal account to a list of contacts associated with a personal
8 account; or

9 (d) change the privacy settings associated with a personal account;

10 (2) take any action or threaten to take any action to discharge, discipline, or otherwise penalize an
11 employee for the employee's refusal to:

12 (a) disclose any information associated with a personal account;

13 (b) add any person or other personal account to the employer's list of contacts associated with a
14 personal account; or

15 (c) change the privacy settings associated with a personal account;

16 (3) fail to hire or refuse to hire an applicant as a result of the applicant's refusal to:

17 (a) disclose any information associated with a personal account;

18 (b) add any person or other personal account to the applicant's list of contacts associated with a personal
19 account; or

20 (c) change the privacy settings associated with a personal account.

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22 **NEW SECTION. Section 4. Exceptions.** [Sections 1 through 4] do not prohibit:

23 (1) law enforcement from accessing personal accounts pursuant to a court order or subpoena; or

24 (2) an employer or employer's agent from:

25 (a) conducting an investigation for the purpose of compliance with applicable laws or regulatory
26 requirements;

27 (b) requiring an employee to disclose any user name, password, or other means of accessing
28 nonpersonal accounts or services that provide access to the employer's computer or information systems;

29 (c) requiring or requesting an employee to disclose a user name, password, or other method of access
30 for the purpose of accessing an employer-issued electronic communications device;

1 (d) terminating or otherwise taking an adverse action against an employee or applicant if otherwise
2 permitted by law; or

3 (e) promulgating lawful workplace policies governing the use and monitoring of the employer's electronic
4 communication devices, including policies regarding employee internet use.

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6 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 4] are intended to be codified
7 as an integral part of Title 39, chapter 2, part 3, and the provisions of Title 39, chapter 2, part 3, apply to [sections
8 1 through 4].

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