

SENATE BILL NO. 195

INTRODUCED BY BLEWETT, ZOLNIKOV, MILLER, B. BENNETT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROTECTING PRIVATE ELECTRONIC INFORMATION ~~AND~~  
5 ~~PERSONAL ACCOUNTS OF JOB APPLICANTS AND EMPLOYEES, INCLUDING SOCIAL MEDIA AND E-MAIL~~  
6 ~~ACCOUNTS, LOCATED ON THE ELECTRONIC COMMUNICATION DEVICES OF JOB APPLICANTS AND~~  
7 ~~EMPLOYEES; AND PROVIDING DEFINITIONS, RESTRICTIONS, AND EXCEPTIONS~~ A DEFINITION."

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

10 (Refer to Introduced Bill)

11 Strike everything after the enacting clause and insert:

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13 NEW SECTION. **Section 1. Employer access to applicant or employee social media.** (1) An  
14 employer may not require or request an employee or applicant for employment to:

- 15 (a) disclose a user name or password for the purpose of allowing the employer to access personal social
- 16 media;
- 17 (b) access personal social media in the presence of the employer; or
- 18 (c) divulge any personal social media or information contained on personal social media.

19 (2) Nothing in this section precludes an employer from requiring or requesting an employee to disclose  
20 a user name, password, or other information for the purpose of accessing an employer-issued SOFTWARE, E-MAIL  
21 ACCOUNTS, OR electronic ~~device~~ DEVICES, including but not limited to cell phones, computers, or tablet computers.

22 (3) NOTHING IN THIS SECTION PROHIBITS OR RESTRICTS AN EMPLOYER FROM COMPLYING WITH A DUTY TO  
23 SCREEN EMPLOYEES OR APPLICANTS PRIOR TO HIRING OR TO MONITOR OR RETAIN EMPLOYEE COMMUNICATIONS THAT  
24 IS ESTABLISHED UNDER FEDERAL LAW OR BY A SELF-REGULATORY ORGANIZATION, AS DEFINED IN SECTION 3(A)(26) OF  
25 THE SECURITIES AND EXCHANGE ACT OF 1934, 15 U.S.C. 78C(A)(26).

26 ~~(3)(4)~~ (4) An employer may not discharge, discipline, threaten to discharge or discipline, or otherwise  
27 retaliate against an employee or applicant for not complying with a request or demand by the employer that  
28 violates this section.

29 ~~(4)(5)~~ (5) As used in this section, "personal social media" means a password-protected electronic service  
30 or account or electronic content, including but not limited to videos, still photographs, blogs, video blogs,

1 podcasts, instant and text messages, e-mail, online services or accounts, or internet website profiles or locations.

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3 NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an  
4 integral part of Title 39, chapter 2, part 3, and the provisions of Title 39, chapter 2, part 3, apply to [section 1].

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