

**REVENUE: No revenue impact**

**FISCAL: Minimal fiscal impact, no statement issued**

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<b>Action:</b>	Do Pass as Amended and Be Printed Engrossed
<b>Vote:</b>	10 - 0 - 0
<b>Yeas:</b>	Barton, Fagan, Holvey, Kennemer, Matthews, Thatcher, Thompson, Weidner, Witt, Doherty
<b>Nays:</b>	0
<b>Exc.:</b>	0
<b>Prepared By:</b>	Jan Nordlund, Administrator
<b>Meeting Dates:</b>	2/20, 3/22, 4/8

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**WHAT THE MEASURE DOES:** Prohibits employer from compelling employee or applicant to provide access to social media account or to add employer to social media contact list. Specifies that employer is not prohibited from conducting investigation or requiring employee to share content of social media account, but employer is prohibited from compelling access to account. Prohibits retaliation against employee or applicant for refusal to provide access or add employer to contact list.

**ISSUES DISCUSSED:**

- Expectation of privacy by social media users
- Need to educate social media users of privacy issues
- Potential discrimination lawsuits against employers
- Facebook’s stated policy prohibiting password sharing
- Obligation of employer to monitor employee conduct and investigate complaints
- Use of social media on employer-provided electronic devices
- Whether definition of “employer” should include managers and supervisors
- Whether public safety employers are included or exempt
- Not intended to create individual liability for supervisor or agent of company

**EFFECT OF COMMITTEE AMENDMENT:** Deletes provisions specific to educational institutions. Specifies employer is not prevented from conducting investigation, without compelling access to social media account, for purpose of ensuring compliance with laws, regulations, requirement or prohibitions against work-related employee conduct based on receipt of information about employee’s activity on social media. Specifies employer is not prohibited from conducting investigation that requires employee to share content of, but not access to, social media reported to employer that is necessary for employer to make factual determination about report. Specifies employer is not liable for having information inadvertently received when monitoring usage of employer’s network or employer-provided electronic devices, but prohibits employer from using information to access employee’s social media account.

**BACKGROUND:** National media sources have reported instances in which employers have pressured employees or job applicants to provide access to their social media accounts or to “friend” them as a condition of employment. Critics claim this is akin to letting an employer look through a personal diary, scrapbook, address book, and calendar. A person with a social media account can enable privacy settings to control which information is available to the general public and “friends.” By “friending” someone, an account holder gives that person access to the personal postings and contact list. Employees and applicants fear retribution if they do not comply with the request to hand over a password or “friend” the employer. Employers want to ensure that employees are not revealing trade secrets or information through social media that would expose the employer to liability or prosecution.

In 2012, six states enacted legislation that prohibits requesting or requiring employees, students or applicants to disclose user name or password access to personal social media accounts.

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***This summary has not been adopted or officially endorsed by action of the committee.***