

House Bill 138

By: Representatives Dawkins-Haigler of the 91st, Trammell of the 132nd, Stephenson of the 90th, Hugley of the 136th, Mitchell of the 88th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 34 of the Official Code of Georgia Annotated, relating to
2 general provisions regarding labor and industrial relations, so as to prohibit employers from
3 requesting username, password, or other means of accessing an account or service for the
4 purpose of accessing personal social media through an electronic communications device of
5 employees or prospective employees with certain exceptions; to provide for penalties; to
6 provide a short title; to provide for related matters; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Social Media Privacy Protection Act."

11 **SECTION 2.**

12 Chapter 1 of Title 34 of the Official Code of Georgia Annotated, relating to general
13 provisions regarding labor and industrial relations, is amended by adding a new Code section
14 to read as follows:

15 "34-1-8.

16 (a) As used in this Code section, the term:

17 (1) 'Electronic communications device' means any device that uses electronic signals to
18 create, transmit, or receive information. Electronic communications devices include
19 computers, telephones, personal digital assistants, and other similar devices.

20 (2) 'Employee' means any person engaged in service to an employer in a business of the
21 employer.

22 (3) 'Employer' means any person or entity that employs one or more employees and shall
23 include the government of the State of Georgia or the government of any political
24 subdivision of the State of Georgia or any branch, department, board, bureau,
25 commission, or authority of any such government.

26 (4) 'Social media' means an electronic service or account, or electronic content,
27 including, but not limited to, videos, still photographs, blogs, video blogs, podcasts,
28 instant and text messages, e-mail, online services or accounts, or Internet website profiles
29 or locations.

30 (b) No employer nor an employer's agent, representative, or designee shall request or
31 require that an employee or prospective employee disclose any username, password, or
32 other means of accessing a personal account or service through an electronic
33 communications device.

34 (c) No employer nor an employer's agent, representative, or designee shall request or
35 require that an employee or prospective employee access personal social media in the
36 presence of the employer or divulge any personal social media activity, except as described
37 in subsection (d) of this Code section.

38 (d) Nothing in this Code section shall affect an employer's existing rights and obligations
39 to request an employee to divulge any personal social media activity reasonably believed
40 to be relevant to an investigation of allegations of an employee's misconduct or violation
41 of applicable laws and regulations, provided that the social media activity is used solely for
42 purposes of that investigation or a related proceeding.

43 (e) Nothing in this Code section shall be construed as preventing an employer from
44 requiring an employee to disclose any username, password, or other means of accessing
45 nonpersonal accounts or services that provide access to the employer's internal computer
46 or information systems.

47 (f) Any employer, employer's agent, representative, or designee that violates any provision
48 of this Code section may be assessed a civil penalty of not less than \$200.00 nor more than
49 \$400.00."

50 **SECTION 3.**

51 All laws and parts of laws in conflict with this Act are repealed.