

Employer Access To Employee Social Media Limited In Proposed California Law

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A bill currently winding its way through the California Legislature would limit the ability of an employer to request that an employee provide access to the employee's personal social media accounts.

[AB 1844](#) "would prohibit an employer from requiring or requesting an employee or applicant for employment to disclose a user name or password for the purpose of accessing personal social media, to access personal social media in the presence of the employer, or to divulge any personal social media." [Legislative Counsel's Digest]

The bill also prohibits retaliating against an employee/applicant who refuses to comply with such requests, be it through discharge, discipline or otherwise.

However, the bill does not totally handcuff employers with respect to employee social media accounts. If passed in its current form, Labor Code Section 980 will read in part:

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

It's interesting to note that the current draft states that the Labor Commissioner, who enforces many California employment laws "is not required to investigate or determine any violation of this act."

One wonders if this makes the employer prohibitions in the bill toothless, and what remedies, short of court action, an employee or applicant could pursue for alleged violations.

Also, as noted in a recent [article](#) on the Workplace Privacy Counsel blog, the draft bill does not limit the ability of an employer to request discovery of personal social media information from former employees.

Link to original article: <http://commercialcounselor.com/employer-access-to-employee-social-media-limited-in-proposed-california-law/>

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