

House Bill 149

By: Representatives Kendrick of the 93rd, Sharper of the 177th, Mayo of the 84th, Fludd of the 64th, Marin of the 96th, 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 or requiring that an employee or applicant for employment disclose a username
4 or password for the purpose of accessing personal social media; to prohibit employers from
5 requesting or requiring that an employee or applicant access personal social media in the
6 presence of the employer; to prohibit an employer from taking adverse action against an
7 employee or applicant for employment for not complying with such a request or demand; to
8 provide for definitions; to provide for exceptions; to provide for a civil cause of action; to
9 provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

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, but
19 are not limited to, computers, tablets, telephones, personal digital assistants, and other
20 similar devices.

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

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

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

31 (b) No employer nor an employer's agent, representative, or designee shall request or
32 require that an employee or applicant for employment:

33 (1) Disclose a username or password for the purpose of accessing personal social media;
34 or

35 (2) Access personal social media in the presence of the employer, employer's agent,
36 representative, or designee.

37 (c) Nothing in this Code section shall be construed as preventing an employer from:

38 (1) Requiring or requesting an employee to disclose any username, password, or other
39 means of accessing an employer issued electronic communications device; or

40 (2) Obtaining information about an employee or applicant for employment that is in the
41 public domain or that is otherwise lawfully obtainable.

42 (d) Nothing in this Code section shall affect an employer's existing rights or obligations
43 to request an employee to disclose his or her username and password for the purpose of
44 accessing social media when such employee's social media activity is reasonably believed
45 to be relevant to a formal investigation by the employer of allegations of an employee's
46 violation of local, state, or federal laws or regulations or of the employer's written policies;
47 provided, however, that such username and password and the social media activity
48 accessed using such username and password shall be used solely for purposes of such
49 investigation or a related proceeding.

50 (e) No employer shall discharge, discipline, or otherwise penalize or threaten to discharge,
51 discipline, or otherwise penalize or retaliate against an employee or applicant for
52 employment for refusing to comply with a request or demand by the employer, employer's
53 agent, representative, or designee that violates this Code section. Nothing in this
54 subsection shall prohibit an employer from terminating or otherwise taking an adverse
55 action against an employee or applicant for employment if otherwise permitted by law.

56 (f) Any person violating this Code section shall be liable to the aggrieved employee or
57 applicant for employment for a civil penalty of \$1,000.00 per violation, plus the amount
58 of any damages which the employee or applicant for employment sustains because of the
59 act of such person. Such aggrieved employee or applicant for employment shall also
60 receive an amount for reasonable expenses which the court finds to have been necessarily
61 incurred as a result of bringing a civil action against a person for violating this Code
62 section, plus reasonable attorney's fees and costs unless the defendant prevails. All such
63 expenses, fees, and costs shall be awarded against the defendant."

64

SECTION 2.

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