

Subject Employer access to employee's user name and password

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Summary

Section	Description
1	<p>Employee username and password privacy protection.</p> <p>Subd. 1. Definitions. Provides definition for the following terms:</p> <ul style="list-style-type: none">• “applicant” is a person applying for employment• “employee” is a person who works for wages or other compensation• “employer” is a person who employs people or acts on behalf of an employer in relation to their employees• “personal social media account” is an electronic account or service where users create user generated content such as videos, photos, written content, messages, or emails, but does not include an employer or school provided account or an account the employer or school requested the employee to sign up for• “specific content” means data or information on a personal social media that can be identified as information unique to the account <p>Subd. 2. Employer access prohibited. Prohibits an employer from requiring or forcing an employee or applicant for a job to:</p> <ul style="list-style-type: none">• tell the employer their username or password to a social media account• show the employer their social media account• give the employer access by adding them as a friend or follower to a private account or require the employee to make an account public <p>Subd. 3. Employer actions prohibited. Prohibits an employer from:</p> <ul style="list-style-type: none">• taking negative action against an employee if they refuse to share social media information• refusing to hire an applicant for a job because they refuse to share their social media information

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Subd. 4. Employer actions permitted. Provides that employers can access information about employees and applicants when it is publically available, and allows employers to comply with other state and federal laws or industry or regulator standards as required. This section also allows employers to request specific content on an employee or applicant’s social media account so that the employer can verify that it does not violate laws and regulatory requirements. If the employer is shown that there may be evidence through social media of certain prohibited activities, then the employer can also ask to see specific content on a personal media site to investigate an allegation that:

- the employee has stolen proprietary or confidential information or financial data or violated the law;
- committed an act of unlawful harassment; or
- used the account during work hours when it is prohibited or used the account for business purposes when it has been prohibited.

Subd. 5. Employer protected if access inadvertent; use prohibited. Provides that an employer has not violated the provisions of this section by receiving an employee’s password or protected materials through virus scans or other employer monitoring of the network on employer provided devices, but the employer may not use the information to access the employee’s social media account or share the information with anyone. This section provides the employer should delete the information as soon as practical.

Subd. 6. Enforcement. An employer, an employee of an employer, or an agent of an employer is liable for actual damages, including pain and suffering, equitable relief, and reasonable attorneys’ fees and costs for violations of this section if an employee has been injured or an employee’s reputation has been injured due to the violation.

Subd. 7. Severability. Provides that the provisions in this chapter are severable.

Effective date. Provides that this section is effective on August 1, 2019, and applies to actions which occur on or after that date.



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