

**First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 13-0049.01 Kristen Forrestal x4217

**HOUSE BILL 13-1046**

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**HOUSE SPONSORSHIP**

**Williams,**

**SENATE SPONSORSHIP**

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**House Committees**

Business, Labor, Economic, & Workforce Development

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING EMPLOYER ACCESS TO PERSONAL INFORMATION**  
102 **THROUGH ELECTRONIC COMMUNICATION DEVICES.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill prohibits an employer from requiring an employee or applicant for employment to disclose a user name, password, or other means for accessing a personal account or service through an electronic communications device. This does not include access to nonpersonal accounts or services that provide access to the employer's internal

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

computer or information systems. The bill also prohibits an employer from discharging, disciplining, penalizing, or refusing to hire an employee or applicant who does not provide access to personal accounts or services.

The bill clarifies that an employer may investigate an employee to ensure compliance with securities or financial law or for suspected unauthorized downloading of proprietary information based on the receipt of information about these activities.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 8-2-126 as  
3 follows:

4 **8-2-126. Prohibitions of employer - requiring access to**  
5 **personal electronic communication devices - definitions.** (1) AS USED  
6 IN THIS SECTION:

7 (a) "APPLICANT" MEANS AN APPLICANT FOR EMPLOYMENT.

8 (b) "ELECTRONIC COMMUNICATIONS DEVICE" MEANS A DEVICE  
9 THAT USES ELECTRONIC SIGNALS TO CREATE, TRANSMIT, AND RECEIVE  
10 INFORMATION, INCLUDING COMPUTERS, TELEPHONES, PERSONAL DIGITAL  
11 ASSISTANTS, AND OTHER SIMILAR DEVICES.

12 (c) "EMPLOYER" MEANS A PERSON ENGAGED IN A BUSINESS,  
13 INDUSTRY, PROFESSION, TRADE, OR OTHER ENTERPRISE IN THE STATE OR  
14 A UNIT OF STATE OR LOCAL GOVERNMENT. "EMPLOYER" INCLUDES AN  
15 AGENT, A REPRESENTATIVE, OR A DESIGNEE OF THE EMPLOYER.

16 (2) (a) AN EMPLOYER MAY NOT REQUEST OR REQUIRE THAT AN  
17 EMPLOYEE OR APPLICANT DISCLOSE ANY USER NAME, PASSWORD, OR  
18 OTHER MEANS FOR ACCESSING THE EMPLOYEE'S OR APPLICANT'S PERSONAL  
19 ACCOUNT OR SERVICE THROUGH THE EMPLOYEE'S OR APPLICANT'S  
20 ELECTRONIC COMMUNICATIONS DEVICE.

21 (b) PARAGRAPH (a) OF THIS SUBSECTION (2) DOES NOT PROHIBIT

1 AN EMPLOYER FROM REQUIRING AN EMPLOYEE TO DISCLOSE ANY USER  
2 NAME, PASSWORD, OR OTHER MEANS FOR ACCESSING NONPERSONAL  
3 ACCOUNTS OR SERVICES THAT PROVIDE ACCESS TO THE EMPLOYER'S  
4 INTERNAL COMPUTER OR INFORMATION SYSTEMS.

5 (3) AN EMPLOYER SHALL NOT:

6 (a) DISCHARGE, DISCIPLINE, OR OTHERWISE PENALIZE OR  
7 THREATEN TO DISCHARGE, DISCIPLINE, OR OTHERWISE PENALIZE AN  
8 EMPLOYEE FOR AN EMPLOYEE'S REFUSAL TO DISCLOSE ANY INFORMATION  
9 SPECIFIED IN PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION; OR

10 (b) FAIL OR REFUSE TO HIRE AN APPLICANT BECAUSE THE  
11 APPLICANT REFUSES TO DISCLOSE ANY INFORMATION SPECIFIED IN  
12 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

13 (4) THIS SECTION DOES NOT PREVENT AN EMPLOYER FROM:

14 (a) CONDUCTING AN INVESTIGATION TO ENSURE COMPLIANCE WITH  
15 APPLICABLE SECURITIES OR FINANCIAL LAW OR REGULATORY  
16 REQUIREMENTS BASED ON THE RECEIPT OF INFORMATION ABOUT THE USE  
17 OF A PERSONAL WEB SITE, INTERNET WEB SITE, WEB-BASED ACCOUNT, OR  
18 SIMILAR ACCOUNT BY AN EMPLOYEE FOR BUSINESS PURPOSES; OR

19 (b) INVESTIGATING AN EMPLOYEE'S ELECTRONIC  
20 COMMUNICATIONS BASED ON THE RECEIPT OF INFORMATION ABOUT THE  
21 UNAUTHORIZED DOWNLOADING OF AN EMPLOYER'S PROPRIETARY  
22 INFORMATION OR FINANCIAL DATA TO A PERSONAL WEB SITE, INTERNET  
23 WEB SITE, WEB-BASED ACCOUNT, OR SIMILAR ACCOUNT BY AN EMPLOYEE.

24 (5) AN AGGRIEVED APPLICANT OR EMPLOYEE MAY INSTITUTE A  
25 CIVIL ACTION FOR A VIOLATION OF THIS SECTION IN A COURT OF  
26 COMPETENT JURISDICTION WITHIN ONE YEAR AFTER THE DATE OF THE  
27 ALLEGED VIOLATION. IN RESPONSE TO THE ACTION, THE COURT MAY

1       AWARD THE AGGRIEVED PERSON:

2               (a) INJUNCTIVE RELIEF;

3               (b) COMPENSATORY AND CONSEQUENTIAL DAMAGES INCURRED BY

4 THE PERSON AS A RESULT OF THE VIOLATION; AND

5               (c) REASONABLE ATTORNEY FEES AND COURT COSTS.

6               **SECTION 2. Safety clause.** The general assembly hereby finds,

7 determines, and declares that this act is necessary for the immediate

8 preservation of the public peace, health, and safety.