

October 5, 2012

On September 27, 2012, California Governor Jerry Brown signed into law a bill which prohibits employers from requiring that employees or job applicants disclose information related to their personal social media accounts, such as Facebook. The bill makes it unlawful for employers to request that employees or job applicants turn over their personal user names or passwords, or to request that an employee or job applicant access his or her personal social media account in the presence of the employer, or to require that an employee or job applicant divulge *any* personal social media, including videos, photographs, blogs, podcasts, instant or text messages, email, online accounts, or websites profiles. Employers may not discharge, discipline, or retaliate against employees who refuse to divulge personal social media information.

The new law contains several important exceptions. Employers retain their existing rights to request that an employee divulge personal social media account information if it is reasonably believed to be relevant to an investigation into workplace misconduct, provided that the social media information is used solely for purposes of that investigation. The law does not apply to passwords or other information used to access employer-issued electronic devices, like laptops or cell phones. Finally, there is nothing in the new law that would prevent an employer from looking at an employee or potential employee's social media webpage if the page has been made viewable to the public.

The new law takes effect January 1, 2013.

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