

ASSEMBLY BILL

No. 1844

Introduced by Assembly Member Campos

February 22, 2012

An act to add Chapter 2.5 (commencing with Section 980) to Part 3 of Division 2 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1844, as amended, Campos. Employer use of social media.

Existing law generally regulates the conduct of employers in the state. ~~Under existing common law, an employer has a duty to exercise reasonable care in employing a person and is required to use reasonable care to discover whether a potential employee is unfit or incompetent.~~

~~This bill would provide that an employer does not fail to exercise reasonable care to discover whether a potential employee is unfit or incompetent by the employer's failure to search or monitor social media, as defined, before hiring the employee.~~

~~This bill would also prohibit an employer from requiring an employee or a prospective employee to disclose a user name or account password to access a personal social media account that is exclusively used by the employee or prospective employee.~~

Existing law imposes various duties on employers. Under existing common law, an employer has a duty to exercise reasonable care in employing a person and is required to use reasonable care to discover whether a potential employee is unfit or incompetent.

This bill would state that an employer does not have a duty to search or monitor social media before hiring an employee.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 2.5 (commencing with Section 980) is
2 added to Part 3 of Division 2 of the Labor Code, to read:

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4 CHAPTER 2.5. EMPLOYER USE OF SOCIAL MEDIA

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6 980. As used in this chapter, “social media” ~~means an~~ *includes*
7 *any* electronic medium where users may create, *share*, and view
8 user-generated content, including uploading or downloading videos
9 or still photographs, blogs, video blogs, podcasts, ~~or~~ instant
10 messages, *or online social networking content*.

11 ~~981. For purposes of a claim of negligent hiring, an employer~~
12 ~~does not fail to exercise reasonable care to discover whether a~~
13 ~~potential employee is unfit or incompetent by the employer’s~~
14 ~~failure to search or monitor social media before hiring the~~
15 ~~employee.~~

16 ~~982. An employer shall not require an employee or prospective~~
17 ~~employee to disclose a user name or account password to access~~
18 ~~social media used by the employee or prospective employee.~~

19 *981. An employer shall not require a prospective employee to*
20 *disclose a user name or account password to access a personal*
21 *social media account that is exclusively used by the prospective*
22 *employee.*

23 *982. An employer does not have a duty to search or monitor*
24 *social media before hiring an employee.*