

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 477

Introduced by Fredrickson, 20.

Read first time January 21, 2025

Committee: Business and Labor

- 1 A BILL FOR AN ACT relating to the Workplace Privacy Act; to amend
- 2 sections 48-3502 and 48-3503, Reissue Revised Statutes of Nebraska;
- 3 to redefine a term; to prohibit employers from taking certain
- 4 actions; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 48-3502, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 48-3502 For purposes of the Workplace Privacy Act:

4 (1) Adverse action means the discharge of an employee, a threat
5 against an employee, or any other act against an employee that negatively
6 affects the employee's employment;

7 (2) Applicant means a prospective employee applying for employment;

8 (3) Electronic communication device means a cellular telephone,
9 personal digital assistant, electronic device with mobile data access,
10 laptop computer, pager, broadband personal communication device, two-way
11 messaging device, electronic game, or portable computing device;

12 (4) Employee means an individual employed by an employer;

13 (5)(a) ~~(5)~~ Employer means (i) a public or nonpublic entity or an
14 individual engaged in a business, an industry, a profession, a trade, or
15 other enterprise in the state, including any agent, representative, or
16 designee acting directly or indirectly in the interest of such an
17 employer, (ii) a subcontractor of such an employer, and (iii) a customer
18 of such an employer. ; and

19 (b) Employer does not include a passenger as defined in section
20 75-323; and

21 (6)(a) Personal Internet account means an individual's online
22 account that requires login information in order to access or control the
23 account.

24 (b) Personal Internet account does not include:

25 (i) An online account that an employer or educational institution
26 supplies or pays for, except when the employer or educational institution
27 pays only for additional features or enhancements to the online account;
28 or

29 (ii) An online account that is used exclusively for a business
30 purpose of the employer.

31 **Sec. 2.** Section 48-3503, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 48-3503 (1) No employer shall:

3 (a) (1) Require or request that an employee or applicant provide or
4 disclose any user name or password or any other related account
5 information in order to gain access to the employee's or applicant's
6 personal Internet account by way of an electronic communication device;

7 (b) (2) Require or request that an employee or applicant log into a
8 personal Internet account by way of an electronic communication device in
9 the presence of the employer in a manner that enables the employer to
10 observe the contents of the employee's or applicant's personal Internet
11 account or provides the employer access to the employee's or applicant's
12 personal Internet account; or

13 (c) (3) Require an employee or applicant to add anyone, including
14 the employer, to the list of contacts associated with the employee's or
15 applicant's personal Internet account or require or otherwise coerce an
16 employee or applicant to change the settings on the employee's or
17 applicant's personal Internet account which affects the ability of others
18 to view the content of such account. ~~;~~

19 (2)(a) Except as provided in subdivision (2)(b) of this section, no
20 employer shall require an employee to utilize an application on an
21 electronic communication device or wear an electronic communication
22 device to track the employee's location or travel patterns or to confirm
23 contacts with other employees.

24 (b) The prohibition in subdivision (2)(a) of this section does not
25 apply if the Governor proclaims a state of emergency for a pandemic
26 pursuant to section 81-829.40 and the following conditions are met:

27 (i) The state of emergency proclamation permits an employer to use
28 an electronic communication device for contact tracing purposes only;

29 (ii) The contact tracing is permitted only on the employer's
30 premises during employee work hours; and

31 (iii) The data collected during the contact tracing is not included

1 in the employee's personnel files and is destroyed within forty-eight
2 hours after the expiration of any tracing period recommended by the
3 Centers for Disease Control and Prevention.

4 (c) Nothing in this subsection shall prohibit an employer from
5 tracking the location of property owned by the employer so long as the
6 property and employee possessing or using the property are not associated
7 in the data collected.

8 (d) Nothing in this subsection shall prohibit an employer from
9 monitoring the use of employer property for productivity or other job-
10 related metrics so long as the property and employee possessing or using
11 the property are not associated in the data collected.

12 (e) Any data collected that associates an employee with property
13 that is being tracked for travel patterns shall be stored by an
14 independent third party and shall only be accessible by warrant.

15 (3) An employer shall not take ~~(4) Take~~ adverse action against, fail
16 to hire, or otherwise penalize an employee or applicant;

17 (a) For ~~for~~ failure to provide or disclose any of the information or
18 to take any of the actions specified in subsection (1) subdivisions (1)
19 through ~~(3)~~ of this section; ~~-~~

20 (b) For refusing to utilize an application or wear a device or be
21 subject to tracking or surveillance as described in subdivision (2)(a) of
22 this section; or

23 (c) Based on information obtained by the employer in violation of
24 subdivision (2)(a) of this section.

25 **Sec. 3.** Original sections 48-3502 and 48-3503, Reissue Revised
26 Statutes of Nebraska, are repealed.