1 A bill to be entitled 2 An act relating to social media accounts privacy; 3 creating s. 448.077, F.S.; providing definitions; 4 prohibiting an employer from requesting or requiring 5 access to a social media account of an employee or 6 prospective employee; prohibiting an employer from 7 taking retaliatory personnel action against an 8 employee or failing or refusing to hire a prospective 9 employee as a result of the employee's refusal to allow access to his or her social media account; 10 providing for a civil action; requiring that the civil 11 12 action be brought within a specified timeframe; 13 providing penalties; providing for fees and costs; 14 providing exceptions; providing an effective date. 15 16 Be It Enacted by the Legislature of the State of Florida: 17 18 Section 1. Section 448.077, Florida Statutes, is created 19 to read: 20 448.077 Employer access to employee social media accounts 21 prohibited.-22 As used in this section, the term: (1)23 (a) "Employee" has the same meaning as in s. 448.101. 24 (b) "Employer" has the same meaning as in s. 448.101. "Prosecutorial agency" means any local, state, or 25 (C)

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federal entity charged with the investigation and prosecution of violations of criminal law.

- (d) "Retaliatory personnel action" has the same meaning as in s. 448.101.
- (e) "Social media account" means an interactive personal account or profile that an individual establishes and uses through an electronic application, service, or platform to generate or store content, including, but not limited to, videos, still photographs, blogs, video blogs, instant messages, audio recordings, and e-mail.
 - (2) An employer may not do any of the following:
- (a) Request or require an employee or prospective employee to take an action that allows the employer to gain access to the employee's or prospective employee's social media account, including, but not limited to, requesting him or her to disclose the username, password, or other means of accessing his or her social media account, if the social media account's contents are not available to the general public.
- (b) Take retaliatory personnel action against an employee as a result of the employee's refusal to allow the employer access to the employee's social media account.
- (c) Fail or refuse to hire a prospective employee as a result of the prospective employee's refusal to allow the employer access to the prospective employee's social media account.

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(3) An employee or prospective employee may bring a civil action against an employer who violates this section in a court of competent jurisdiction. Such action must be brought within 2 years after the violation occurred. The employee or prospective employee may seek injunctive relief to restrain the employer from continuing to act in violation of this section and may recover damages in an amount equal to the actual damages arising from the violation or \$500 per violation, whichever is greater. An employee or prospective employee who prevails is entitled to recover court costs and reasonable attorney fees.

- (4) This section does not prevent an employer from requesting or requiring an employee to disclose a username, password, or other means of accessing a social media account when such account is used primarily for the employer's business purposes.
- (5) This section does not prohibit or restrict an employer from:
- (a) Complying with a duty to monitor or retain employee communications which is established under state or federal law or by a self-regulatory organization, as defined in s. 3(a)(26) of the Securities Exchange Act of 1934 and 15 U.S.C. s. 78c(a)(26).
- (b) Screening a prospective employee who completes an application for employment at a law enforcement or prosecutorial agency.

(C)	Screening	an emp	loyee	who is	the :	subject	of a	conduct
investiga	ation perfo	rmed by	a law	enfor	cement	t or pro	secut	torial
agency.								

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Section 2. This act shall take effect October 1, 2019.

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