1	L.D. 921		
2	Date: (Filing No. S-)		
3	Reproduced and distributed under the direction of the Secretary of the Senate.		
4	STATE OF MAINE		
5	SENATE		
6	127TH LEGISLATURE		
7	FIRST REGULAR SESSION		
8 9 10	SENATE AMENDMENT " "to COMMITTEE AMENDMENT "B" to H.P. 640, L.D. 921, Bill, "An Act To Strengthen the Right of a Victim of Sexual Assault or Domestic Violence To Take Necessary Leave from Employment"		
11	Amend the amendment by inserting after the title the following:		
12	'Amend the bill by striking out the title and substituting the following:		
13 14 15	'An Act To Strengthen the Right of a Victim of Sexual Assault or Domestic Violence To Take Necessary Leave from Employment and To Promote Employee Social Media Privacy' '		
16	Amend the amendment by inserting before section 1 the following:		
17	'PART A'		
18	Amend the amendment by striking out all of section 2 and inserting the following:		
19	'PART B		
20	Sec. B-1. 26 MRSA c. 7, sub-c. 1-C is enacted to read:		
21	SUBCHAPTER 1-C		
22	EMPLOYEE SOCIAL MEDIA PRIVACY		
23	§615. Definitions		
24 25	As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.		
26	1. Applicant. "Applicant" means an applicant for employment.		
27 28	2. Employee. "Employee" means an individual who provides services or labor for an employer for wages or other remuneration.		

- 3. Employer. "Employer" means a person in this State who employs individuals and includes the State and political subdivisions of the State. "Employer" includes a person acting in the interest of an employer directly or indirectly.
- 4. Social media account. "Social media account" means an account with an electronic medium or service through which users create, share and view user-generated content including but not limited to videos, still photographs, blogs, video blogs, podcasts, instant and text messages, e-mail, online service accounts and Internet website profiles and locations. "Social media account" does not include an account opened at an employer's behest or provided by an employer or intended to be used primarily on behalf of an employer.

§616. Prohibitions

An employer may not:

- 1. Passwords. Require or coerce an employee or applicant to disclose, or request that an employee or applicant disclose, the password or any other means for accessing a personal social media account;
- 2. Access in presence. Require or coerce an employee or applicant to access, or request that an employee or applicant access, a personal social media account in the presence of the employer or an agent of the employer;
- 3. Information. Require or coerce an employee or applicant to disclose any personal social media account information;
- 4. Contacts. Require or cause an employee or applicant to add anyone, including the employer or an agent of the employer, to the employee's or applicant's list of contacts associated with a personal social media account;
- 5. Settings. Require or cause an employee or applicant to alter, or request that an employee or applicant alter, settings that affect a 3rd party's ability to view the contents of a personal social media account;
- **6. Employees.** Discharge, discipline or otherwise penalize or threaten to discharge, discipline or otherwise penalize an employee for the employee's refusal to disclose or provide access to information as specified in subsection 1, 2 or 3 or for refusal to add anyone to the employee's list of contacts associated with a personal social media account as specified in subsection 4 or to alter the settings associated with a personal social media account as specified in subsection 5; or
- 7. Applicants. Fail or refuse to hire an applicant as a result of the applicant's refusal to disclose or provide access to information specified in subsection 1, 2 or 3 or refusal to add anyone to the applicant's list of contacts associated with a personal social media account as specified in subsection 4 or to alter the settings associated with a personal social media account as specified in subsection 5.

§617. Exceptions

1. Publicly available information. This subchapter does not apply to information about an applicant or employee that is publicly available.

2. Duty to screen or supervise. This subchapter does not prohibit or restrict an
employer from complying with a duty to screen employees or applicants before hiring or
to monitor or retain employee communications that is established by a self-regulatory
organization as defined by the federal Securities Exchange Act of 1934, 15 United States
Code, Section 78c(a)(26) or under state or federal law, regulation or rule to the extent
necessary to supervise communications of regulated financial institutions or insurance or
securities licensees for banking-related, insurance-related or securities-related business
purposes.

3. Investigation. This subchapter does not prohibit or restrict an employer from requiring an employee to disclose personal social media account information that the employer reasonably believes to be relevant to an investigation of allegations of employee misconduct or a workplace-related violation of applicable laws, rules or regulations if requiring the disclosure is not otherwise prohibited by law, as long as the information disclosed is accessed and used solely to the extent necessary for purposes of that investigation or a related proceeding.

§618. Workplace policies

This subchapter does not limit an employer's right to promulgate and maintain lawful workplace policies governing the use of the employer's electronic equipment, including a requirement that an employee disclose to the employer the employee's user name, password or other information necessary to access employer-issued electronic devices, including but not limited to cellular telephones and computers, or to access employer-provided software or e-mail accounts.

§619. Penalties for violation

An employer who violates this subchapter is subject to a fine imposed by the Department of Labor of not less than \$100 for the first violation, not less than \$250 for the 2nd violation and not less than \$500 for each subsequent violation.

27 PART C

Sec. C-1. Appropriations and allocations. The following appropriations and allocations are made.

30 LABOR, DEPARTMENT OF

31 Regulation and Enforcement 0159

- 32 Initiative: Provides funds for a 1/2-time Labor and Safety Inspector position and related
- 33 All Other costs for the additional enforcement requirements associated with the
- disclosure of personal social media account information and with employee rights
- regarding a leave of absence when the employee is a victim of violence.

36	GENERAL FUND	2015-16	2016-17
37	POSITIONS - LEGISLATIVE COUNT	0.500	0.500
38	Personal Services	\$23,867	\$32,372

1	All Other	\$22,600	\$22,600	
2 3	GENERAL FUND TOTAL	\$46,467	\$54,972	
<i>3</i>	GENERAL FUND TOTAL	\$40,407	\$34,972	
5	Amend the amendment by relettering or renumbering any nonconsecutive Part lette			
6	or section number to read consecutively.			
7	SUMMARY			
8 9 10	This amendment amends Committee Amendment "B" to strike the bill and replace it. Part A changes the penalties that may be assessed for violations of the employment leave for victims of violence law, as follows.			
11 12	1. It increases the fine from up to \$200 per violation to up to \$1,000 per violation and provides that the fine applies only to denials of leave in violation of the law.			
13 14	2. It provides that, for denial of leave in violation of the law, the employer must pay the affected individual an amount 3 times the total assessed fines.			
15 16 17	3. It provides that, for termination in connection with exercising a right granted under the law, the affected individual may choose either to receive an amount 3 times the total assessed fines or reemployment with the employer with back wages.			
18 19 20	Part B incorporates the substance of L.D. 686 as amended by Committee Amendment "A" to that L.D. to protect the social media privacy of employees and applicants for employment.			
21	Part C contains an appropriations and allocations section.			
22	FISCAL NOTE REQUIRED			
23	(See attached)			
24	SPONSORED BY:			
25	(Senator HAMPER)			
26	COUNTY: Oxford			