

**Unofficial Draft Copy**

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LC8899

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act prohibiting unauthorized transport by public officials, public employees, or contractors with public agencies of hardware or software or electronic access to another individual's personal identifying information unless certain conditions apply; providing penalties and terms; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Unauthorized transport -- access - application.** (1) (a) A public officer, legislator, public employee, or a person under contract with a public agency may not transport outside of a public building without written authorization any hardware or software containing unencrypted or otherwise protected personal information as that term is defined in 30-14-1702 of any individual.

(b) If encrypted or otherwise protected, the personal information must be protected at a level recommended by the information technology board established in 2-15-1021.

(c) Authorization means a written policy:

(i) by the elected official for the agency that employs the public officer;

(ii) by the legislative council for a legislator;

(iii) by the employee's supervisor for a public employee; or  
(iv) within the contract for a person hired under contract  
by a public agency.

(2) A public officer, legislator, public employee, or  
contractor with a public agency:

(a) using the statewide telecommunications network may not  
purposely access another individual's personal information as  
that term is defined in 30-14-1702 without written authorization  
from the individual and, for a public employee, from the  
employee's supervisor;

(b) may not have access if teleworking to complete data  
fields that contain personal information as defined in 30-14-  
1702;

(c) may not have access to the statewide telecommunications  
network for data entry and revision unless access is over secure  
connections and hardware and software security is current; and

(d) may not store personal information as defined in 30-14-  
1702, if accessed from the statewide telecommunications network,  
on any device not provided and updated for security purposes by  
the public agency.

(3) (a) Except as provided in 2-17-546, subsections (1) and  
(2) apply to all branches of state government, notwithstanding 2-  
17-515 and 2-17-516.

**NEW SECTION. Section 2. Violation -- penalty -- exclusion.**

(1) A violation of [section 1] is official misconduct as provided  
in 45-7-401.

(2) The penalty upon conviction is as provided in 45-7-401(2).

(3) A public officer or public employee charged with violating [section 1] may not use as a defense that actions were taken within the course and scope of the officer's or employee's employment.

NEW SECTION. **Section 3. {standard} Codification**

**instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 2, chapter 17, part 5, and the provisions of Title 2, chapter 17, part 5, apply to [sections 1 and 2].

NEW SECTION. **Section 4. {standard} Effective date.** [This act] is effective on passage and approval.

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{Name : Pat Murdo  
Title : Legislative Research Analyst  
Agency : Legislative Services Division  
Phone : 444-3594  
E-Mail : pmurdo@state.mt.us}