

Blog Post

The “Right to Disconnect” in the U.S.? What Employers Need to Know About Emerging Proposals

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By M. Adil Yaqoob

Workplace laws are beginning to reflect a new reality: employees are connected to work around the clock through smartphones, messaging apps, and remote-work platforms. While many companies treat after-hours communication as part of their culture, some lawmakers have been busy considering whether employees should have a legal right to ignore employer communications outside of working hours, without fear of reprisal or other repercussions. Although there are currently no federal, state, or local laws in effect in the United States to protect an employee’s “right to disconnect” after hours, employees potentially may be toggling into “do-not-disturb” mode in the near future.

California’s AB 2751: A First Attempt at a U.S. Right to Disconnect

In February 2024, California lawmakers introduced Assembly Bill 2751, modeled in part on right to disconnect laws that have taken shape, in some form, in countries such as France, Belgium, and the province of Ontario, Canada, among others. The bill would have required California employers to adopt a written policy granting employees the right to ignore communication from their employer outside of regular working hours.

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Key features of the proposed bill included:

- **Written Policy Requirement:** Employers would need to issue a written policy setting out employees' right not to engage in work-related communications outside scheduled hours.
- **Exceptions:** The bill created carve-outs for emergencies and for scheduling changes (e.g., a last-minute shift swap).
- **Enforcement:** Employees who believed their rights were violated could have filed complaints with the California Labor Commissioner.

While the proposed bill was held in committee and did not advance in 2024, it marks the first serious attempt at codifying a right to disconnect law in the United States. Given California's role as a bellwether in employment law, the proposal is likely to resurface in revised form.

Other Jurisdictions Are Watching

California is not alone. New Jersey legislators floated a similar proposal in 2024 that would have required employers with 10 or more employees to adopt a written right to disconnect policy. Although it stalled, its introduction highlights growing interest in regulating after-hours communication in U.S. workplaces.

Internationally, the concept is more mature: France has had a national right to disconnect law since 2017, and several other countries around the world have adopted similar laws with varying degrees of protection. While not all such laws may officially sanction an employee's right to ignore off-hours work communications, or give them a private cause of action for alleged infractions, many at least require covered employers to have written policies addressing off-hour work communications. Policymakers cite research on burnout, mental health, and work-life balance as drivers of these laws.

Interaction With Existing U.S. Workplace Laws

Even without a statutory right to disconnect in the United States, existing laws already frame employer risk in this area and compel employers to clearly define their expectations as to off-hour communications, particularly as to non-exempt workers:

- **Wage and Hour Liability:** If non-exempt employees are responding to emails or texts after hours, employers risk off-the-clock work claims under the Fair Labor Standards Act and state wage laws. A legal right to disconnect could make these claims more visible and harder to dispute.
- **Disability and Leave Laws:** Continuous connectivity can exacerbate mental health conditions for those with bona fide mental health disabilities, potentially triggering obligations under the ADA, FMLA, or state leave statutes.

What Employers Should Do Now

Even though no U.S. states have enacted a right to disconnect law, the trend line is clear. Employers who rely on always-on communication models may need to consider how a right to disconnect law passed in their state could affect their workforce. Practical steps include:

1. **Audit Communication Expectations:** Assess whether managers are implicitly requiring after-hours responsiveness. Non-exempt employees in particular should not be fielding routine emails after hours without pay.
2. **Set Clear Boundaries:** Consider voluntary policies that discourage routine after-hours messaging, reserving exceptions for true emergencies or time-sensitive scheduling.
3. **Train Managers:** Supervisors should understand the risks of expecting instant responses during off hours, particularly from hourly or non-exempt employees.

4. **Evaluate Technology Tools:** Some companies are experimenting with email delay features or after-hours message blocks. Even without a mandate, these can reduce burnout and improve retention.
5. **Stay Ahead of Legislation:** Monitor developments in California and other state legislatures. Employers with multistate workforces should be prepared to adapt quickly if a right to disconnect law takes hold.

Staying Ahead of the Global Trend

While a right to disconnect edict has not yet arrived in the United States, the conversation has begun. Employers who wait for a mandate may find themselves scrambling. Those who act now — by setting clear boundaries and aligning communication practices with existing wage and hour laws — will be better positioned to reduce risk and improve workplace culture.

Employers with questions regarding their off-hours communication policies should contact their Akerman Labor & Employment attorney.

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