

SNOPA

The United States and California Seek to Prevent Employers (and Schools!) from Requiring Social Media Passwords

A new bill introduced in the United States House of Representatives would make it illegal for employers to require applicants and employees to turn over their social media passwords. The bill, styled: Social Networking Online Protection Act (SNOPA), would also would prohibit employers from demanding such access and from disciplining, discriminating against or denying employment to individuals for refusing to volunteer this information. (Be sure to read the comments from Brad Shear below; he points out that one of the major focuses of SNOPA is to protect college and university students, particularly student-athletes.)

In a similar vein, California continues to push forward with its plan to join Maryland with state legislation banning these types of practices by employers. California's bill has passed committees in both the House and the Senate. A similar bill is pending in Washington.

As I have said all along, this was not a matter of if, but a matter of when:

- [We all knew it would happen // Maryland becomes first state to ban employers from asking for social media passwords.](#)
- [Someone will regulate it if the feds don't. And it is silly/risky for employers to be asking for passwords anyway.](#)

And my favorite tweet of all:

- [I thought the "Facebook Password" issue might go away. It is silliness at its best. Now I'll probably have to blog about it.](#)

You win Maryland, California, Washington, and Washington D.C.! I relent. You've earned your post on my blog. Well done.

Collecting passwords from potential or existing employees is a bad idea. Reviewing potential or existing employees' public social media feeds, however, in many instances is a good idea. Just be sure you are aware of the concerns, such as union activity, and potential, albeit fairly small, potential for a discrimination claim to pop up down the road.

If you're doing this (requiring passwords) now, go ahead and stop (voluntarily—or if you're in Maryland, because it's the law). One way or the other, you will not be allowed to keep or continue this practice.

Comments from Brad Shear:

Many of you are probably aware of Brad Shear and his excellent social media blog: Shear on Social Media. After I posted this SNOPA article, Brad reached out to me to explain some additional, significant aspects of the bill. In Brad's words:

I worked with Rep. Engel's office on the legislation and it is based off of my MD legislation that was recently passed and is awaiting the governor's signature. Its focus is on password protected digital content. It has nothing to do with Google searches of employees and reviewing information based upon a Google search. I believe that businesses should treat digital content the same way as "real world" content. If it is not proper to ask to see an employee's personal mail then it is not proper to see an employee's personal email accessed on their personal iPhone, computer, etc.... In addition, employers do not want to create new legal duties to monitor in the digital world if the equivalent activity is not required to be monitored in the "real world".

While there are only a handful of documented examples of employers demanding access to password protected content across the country, there are thousands of college students (mostly student-athletes) that are being forced to turn over their password protected digital/social media account information to their schools and/or third parties such as www.udiligence.com, www.varsitymonitor.com, and www.centrixsocial.com. The profiles these companies are compiling on college students are very troubling and these companies are trying to pitch their services to businesses so prospective job applicants and current employees are required to have their password protected digital/social media content screened (like a drug test). Therefore, if SNOPA or similar legislation (that protects all the groups that SNOPA protects) that stops these practices is not enacted, our children will grow up in a much different world with a toothless 1st amendment.

Thanks for the additional insight and commentary Brad. Keep up the good work. I encourage all of my readers to review SNOPA in order to understand its purpose and its reach.

-Tyson-

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