

New Efforts to Protect Employee Privacy

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Given the advent of social media, it is not surprising most employers review the content of social networking sites as part of the hiring process. Of course, doing so may give rise to certain pitfalls, including potential claims of discrimination and potential claims for invasion of privacy.

On April 27, 2012, two democrats in the U.S. House of Representatives introduced the Social Networking Online Protection Act. This legislation would prohibit employers and universities from requiring employees and students to provide access to private e-mail accounts and personal accounts on social networking websites such as Facebook.

The introduction of federal legislation picks up on a trend in state legislatures. On May 2, 2012, Governor Martin O'Malley of Maryland signed the nation's first law regulating employers' ability to demand that employees or prospective employees disclose their "user name, password, or other means for accessing a personal account or service through an electronic communications device."

These legislative efforts demonstrate the influence of employee rights groups. At this time, employers need not alter their behavior, but should be cognizant of the changing legal landscape. This issue will likely become even more hotly debated in the future.

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