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Testimony Supporting, Senate Bill 317 An Act Concerning Employee Privacy

March 11, 2014

Senator Holder-Winfield, Representative Tercyak and distinguished members of the Labor and Public Employees Committee, my name is David McGuire. I'm the staff attorney of the American Civil Liberties Union of Connecticut and I'm here to support Senate Bill 317, An Act Concerning Employee Privacy.

An applicant for a municipal government job in Connecticut recently contacted our office after being told he would be denied employment if he did not reveal his Facebook password. He had already passed through most of the screening process and he needed the job, so he complied, even though he felt his privacy had been violated. This should not happen, and this legislation will prohibit it by protecting all of an individual's online accounts, including email and social media.

An individual's email and social media accounts now serve the same function and contain the kinds of information once confined to postal correspondence and personal telephone calls. Employers have not acquired a right to rifle through that personal information just because it is now in electronic form. By accessing password-protected online accounts, an employer overrides the privacy protections users have created and violates the employees' reasonable expectations of privacy in these communications.

Additionally, allowing potential employers to demand social network passwords can expose an applicant to unlawful discrimination. Many personal social media profiles and posts reveal such intimate information as an applicant's age, marital status, religion, ethnicity and whether she is pregnant. This provides answers to highly personal questions that potential employers may not legally ask, defeating the purpose of the anti-discrimination laws that forbid them from asking. There is also no doubt that the fear of an employer or potential employer gaining access to password-protected online accounts can have a chilling effect on individuals' free speech rights.

In 2012, Maryland became the first state in the nation to pass a bill banning employers from requesting the passwords to the social media accounts of employees or potential employees. The ACLU of Maryland helped expose the practice after the Maryland Department of Public Safety and Correctional Services demanded a social media password during a reinstatement interview. The interviewee stated "I felt violated, I felt disrespected, I felt that my privacy was invaded. But not only my privacy, the privacy of my friends and that of my family that didn't ask for that." He had it right. The violation of privacy extends beyond the employee or potential employee. It breaches the privacy safeguards of their friends and families.

In 2013 Arkansas, Colorado, Illinois, Nevada, New Jersey, New Mexico, Oregon, Utah, Vermont and Washington enacted social media privacy legislation. In addition, similar legislation has been introduced or is pending in at least 26 states this year. There is support for this bill in Connecticut; last year a

similar bill passed our Senate by a vote of 30 to 6. Please pass this legislation to ensure that personal online communications and activities receive the same protections as offline communications.