



## OLR BACKGROUNDER: EMPLOYMENT-RELATED SOCIAL MEDIA ACCOUNT PRIVACY LAWS IN OTHER STATES

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### "PERSONAL ONLINE ACCOUNTS"

State laws that protect the privacy of personal online accounts typically protect accounts an employee or job applicant uses exclusively for personal communications unrelated to any of the employer's business purposes.

### ISSUE

This report discusses employment-related social media account privacy laws in other states.

### SOCIAL ACCOUNT PRIVACY LAWS

As social media usage becomes increasingly prevalent in society, some employers have sought access to the personal online (i.e., social media) accounts of their employees and job applicants. According to the

[National Conference of State Legislatures](#), 18 states have responded by enacting laws that ban or limit the practice to specific circumstances. Many other states, including Connecticut, have considered adopting similar laws.

In general, these laws prohibit an employer from requesting or requiring an applicant or employee to (1) disclose information that provides access to the applicant's or employee's personal online account (e.g., a username and password) or (2) access their personal online account in front of the employer. Several of the laws also prohibit employers from requesting or requiring an applicant or employee to (1) add anyone to a list of contacts associated with a personal account or e-mail (e.g., a "friend list") or (2) reduce a personal account's privacy settings.

The laws typically prohibit employers from discharging, disciplining, failing to hire, or otherwise penalizing an applicant or employee for failure to comply with such a request or requirement. They also often specify that the law's privacy protection does not extend to (1) accounts used for the employer's business purposes or to engage in business-related communications or (2) usernames, passwords, or other methods for accessing employer-supplied electronic devices.

Many of the laws also specify that they do not prohibit employers from:

1. complying with federal laws and regulations or the rules of self-regulatory organizations (e.g., the Securities Exchange Commission's rules);
2. requesting or requiring access to an employee's personal account if it is reasonably believed to be relevant to a formal investigation;
3. restricting or prohibiting employee access to certain websites while using employer-supplied devices or resources;
4. monitoring or blocking usage of employer-supplied networks, electronic equipment, and e-mail;
5. inadvertently obtaining an employee's personal account access information through monitoring the employer's network or employer-supplied devices, as long as the information is not used to access the employee's personal accounts; or
6. obtaining information about an employee or applicant that is in the public domain.

Table 1 lists the states that have enacted employment-related social media account privacy laws as of November 2014. It also provides brief descriptions of any significant provisions in the laws that were not discussed above.

**Table 1: Employment-related Social Media Privacy Laws**

<b>State</b>	<b>Additional Provisions</b>
<b>Arkansas</b> ( <a href="#">2013 HB 1901</a> )	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>California</b> ( <a href="#">2012 AB 1844</a> )	<ul style="list-style-type: none"> <li>• Specifies that the state labor commissioner is not required to investigate or determine violations of the act</li> </ul>
<b>Colorado</b> ( <a href="#">2013 HB 1046</a> )	<ul style="list-style-type: none"> <li>• Requires the department of labor to investigate complaints and issue findings</li> <li>• Allows the state department of labor to issue rules on penalties</li> </ul>
<b>Illinois</b> ( <a href="#">2012 HB 3782</a> and <a href="#">2013 SB 2306</a> )	<ul style="list-style-type: none"> <li>• Specifies that a "social networking website" does not include e-mail</li> </ul>
<b>Louisiana</b> ( <a href="#">2014 HB 340</a> )	<ul style="list-style-type: none"> <li>• Also extends privacy protection to students' personal accounts</li> </ul>
<b>Maryland</b> ( <a href="#">2012 HB 964</a> )	<ul style="list-style-type: none"> <li>• Prohibits employees from downloading unauthorized employer proprietary information or financial data to an employee's personal web site, an internet web site, a web-based account, or similar account</li> </ul>
<b>Michigan</b> ( <a href="#">2012 HB 5523</a> )	<ul style="list-style-type: none"> <li>• Also extends privacy protection to students' personal accounts</li> <li>• Makes violations a misdemeanor punishable by a fine of up to \$1,000</li> <li>• Allows complainants to bring a civil suit and recover up to \$1,000 in damages</li> <li>• Makes compliance with a federal or state law an affirmative defense</li> </ul>

Table 1 (Cont.)

<b>State</b>	<b>Additional Provisions</b>
<b>Nevada</b> ( <a href="#">2013 AB 181</a> )	<ul style="list-style-type: none"> <li>Also generally prohibits consumer credit checks</li> </ul>
<b>New Hampshire</b> ( <a href="#">2014 HB 1407</a> )	<ul style="list-style-type: none"> <li>None</li> </ul>
<b>New Jersey</b> ( <a href="#">2013 A2878</a> )	<ul style="list-style-type: none"> <li>Does not apply to (1) the state's department of corrections and parole board, (2) county corrections departments, and (3) state or local law enforcement agencies</li> <li>Specifies that any waiver of the act's privacy protections is void and unenforceable</li> <li>Sets a \$1,000 fine for initial violations and a \$2,500 fine for subsequent violations</li> </ul>
<b>New Mexico</b> ( <a href="#">2013 SB 371</a> )	<ul style="list-style-type: none"> <li>None</li> </ul>
<b>Oklahoma</b> ( <a href="#">2014 HB 2372</a> )	<ul style="list-style-type: none"> <li>Specifies that it does not prohibit an employer from reviewing or accessing personal online social media accounts that an employee chooses to use while utilizing the employer's computer system, network, or communication devices</li> <li>Allows employees and applicants to bring civil actions against violating employers. Damages are limited to \$500 per violation, with no punitive or emotional damages allowed. Suits must be filed within six months.</li> </ul>
<b>Oregon</b> ( <a href="#">2013 HB 2654</a> )	<ul style="list-style-type: none"> <li>None</li> </ul>
<b>Rhode Island</b> ( <a href="#">2014 HB 7124</a> )	<ul style="list-style-type: none"> <li>In civil actions, allows a court to award declaratory relief, injunctive relief, damages, and reasonable attorneys' fees</li> </ul>
<b>Tennessee</b> ( <a href="#">2014 SB 1808</a> )	<ul style="list-style-type: none"> <li>None</li> </ul>
<b>Utah</b> ( <a href="#">2013 HB 100</a> )	<ul style="list-style-type: none"> <li>Allows aggrieved employees or applicants to bring a civil suit and limits damages to \$500</li> </ul>
<b>Washington</b> ( <a href="#">2013 SB 5211</a> )	<ul style="list-style-type: none"> <li>Allows aggrieved employees or applicants to bring a civil suit and courts to award injunctive or other equitable relief, actual damages, a \$500 penalty, and attorneys' fees</li> <li>Allows courts to award expenses and attorneys' fees to the employer if the suit is found to be frivolous and advanced without a reasonable cause</li> </ul>
<b>Wisconsin</b> ( <a href="#">2013 SB 223</a> )	<ul style="list-style-type: none"> <li>Allows employers, when conducting certain investigations, to require an employee to grant access to a personal internet account, but they cannot require the employee to provide access information (e.g., a user name and password)</li> </ul>

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