BLOG

New Developments on Laws That Bar Employers From Demanding Employee Passwords

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As we reported in <u>March</u>, federal and state lawmakers have responded quickly to reports that employers have requested employees and job applicants' social media passwords. Recently, Maryland Governor Martin O'Malley signed the first U.S. <u>law</u> that prevents employers from discharging, disciplining, or otherwise penalizing an employee for refusing to disclose user names and passwords to social media accounts. Employers also may not refuse to hire an applicant for such a refusal. State legislatures in several other states, including <u>Illinois</u>, <u>Delaware</u>, <u>California</u>, <u>Michigan</u>, <u>Minnesota</u>, <u>Missouri</u>, <u>New York</u>, and <u>South Carolina</u> have pending legislation that addresses similar employer-requests for social network passwords. <u>Delaware</u> and <u>California</u> are also working on laws that address school requests for students' social media passwords. Representatives have introduced a similar bill in Congress (<u>H.R. 5050</u>) that would prohibit employers, institutions of higher education, and local elementary and secondary educational agencies from requiring or requesting that current or prospective employees and students disclose their user names, passwords, or any other means of access to their private email and social networking accounts. Employers who violate the provision could be assessed a penalty of up to $10,000. The House Committee on Education and the Workforce is currently considering the bill.

TIP: Employers should reexamine their social media practices on requiring applicants or employees to provide such passwords in order to determine if the legal risks, employee moral issues and/or potential negative publicity outweigh any real or perceived benefits.

1 Min Read

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