

From Bad Idea To Breaking The Law: Employer Requests For Facebook; Other Social Networking And Email Passwords May Soon Be Unlawful

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On March 26, 2012 I posted [a blog](#) cautioning employers from requesting social media password, most notably, Facebook. That practice may be short-lived as legislation has been introduced in both Houses of the United States Congress making unlawful for employers or schools to require employees, students and/or candidates to provide social media password. Although several states introduced legislation in March and April of 2012, the proposed legislation may impact employers and its employees throughout the country.

Bill H.R. 5050 was introduced by House Representative Eliot Engel on April 27, 2012 and is titled Social Networking Online Protection Act (SNOA). The legislation seeks to make it unlawful for employers and educational institutions to: “require or request that an employee or applicant for employment provide the employer with a user name, password, or any other means for accessing a private email account of the employee or applicant or the personal account of the employee or applicant on any social networking website.” The legislation would prohibit any employer to discharge, discipline, discriminate against, or deny employment or promotion to any employee or candidate who refuses or declines to provide an email or social networking username or password. Similarly, the legislation would make it unlawful for any educational institution to require the disclosure of any email or social networking username or password and discharge, discipline,

discriminate against in any manner, deny admission to, suspend, expel, or threaten to take any such action against any student for his or her failure to do so. The full text of SNOA can be found [here](#) :

Although SNOA does not create a private cause of action for employees or students, any violation by an employer or educational institution may result in a fine of up to \$10,000. The legislation warrants close attention from employers and employees to educational institutions and students. Similar to other areas of employment law, it is important to research state legislation as well as several states have enacted and already passed legislation similar to SNOA.

What may now be poor policy for employers to request Facebook and other social media passwords may soon become unlawful. Stay tuned for future updates on SNOA.