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New Year's Watch: State Laws Take Effect to Prohibit Employers from Mandating that Job Applicants and Employees Divulge Social Media Passwords

January 3, 2013

With the start of the New Year, the laws of four states (Maryland, Illinois, California, and Michigan) prohibit employers from requiring job applicants or employees to grant access to their *personal* password-protected social media accounts. Although Maryland's law has been in effect for a few months now, the laws of Illinois, California, and Michigan all took effect within the past week.

Given this emerging trend, employers across the country should brace for the prospect of more states codifying similar legislation. Indeed, in 2012, several state legislatures (as well as the U.S. Congress) advanced such proposals.

In addition to monitoring these legislative developments, employers across the nation should (1) make sure that their searches and use of information found on the Internet and social media sites do not violate relevant privacy and antidiscrimination laws; (2) stay up to date with decisions rendered by courts and the National Labor Relations Board on these issues; and (3) ensure their general social media policies and any rules regarding company-sponsored social media activities are current with the developing law.

If you have any questions or concerns regarding these new laws or related developments, please contact your Proskauer lawyer or any co-chair of the Employment Law Counseling Practice Group.

For our past client alert on Illinois' law, see Illinois Second State To Prohibit Employers From Requiring Applicants and Employees To Divulge Social Media Passwords.

For our past blog entry on California's law, see New California Law Protects Employee Use of Social Media.

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