

Facebook protections urged for job seekers, college applicants

January 31 2013, by Brad Cooper

In the era of social media where anyone can be famous for 15 minutes - or longer - the challenge of the Digital Age is keeping stuff private.

That's prompted a pair of Democratic lawmakers in Kansas - Rep. Gail Finney and Sen. Oletha Faust-Goudeau - to try to protect [job seekers](#) from employers who want access to user names and passwords to snoop through social media accounts such as [Facebook](#) or [Twitter](#).

Finney also is pushing a bill that would ban colleges and universities from asking for the same information from students, or those looking to enroll, about social media.

The Facebook legislation is comparable to other bills that have been surfacing amid reports of employers using social media to screen job applicants.

"What you do over Facebook doesn't have anything to with the duties of the job you're applying for," said Faust-Goudeau.

"If people are out seeking gainful employment we shouldn't have other barriers keeping them from work."

Labor experts believe laws like the one proposed in Kansas are the first foray into untangling many of the complex issues related to social media and the workplace.

So far, six states have passed laws limiting employer access to social media accounts. Other bills have been rolled out in at least three more states. Ideas are circulating in Congress as well.

The laws picked up momentum last year after The Associated Press documented accounts of interviewers asking job applicants for user names and passwords for their Facebook accounts.

AP reporters found instances in at least five states where employers - several of them [local governments](#) - wanted to screen Facebook accounts as part of the [hiring process](#).

The report drew a sharp reaction in Congress. Two [senators](#) asked the U.S. [Justice Department](#) to investigate whether asking employees for Facebook passwords violated federal law. The answer, they were told, can vary from one situation to the next.

Meanwhile, Facebook's chief privacy officer issued a statement, saying that employers shouldn't ask job applicants for their Facebook [passwords](#).

"You shouldn't be forced to share your private information and communications just to get a job," Erin Egan wrote in a March 2012 blog post. "It is important that everyone on Facebook understands they have a right to keep a password to themselves."

Facebook vowed to take action to protect its users either by getting laws passed or by suing to protect its users.

Aaron Deacon, president of Social Media Club of Kansas City, thought the Kansas bill shouldn't even be necessary.

"It's a funny bill to me," Deacon said. "The idea that employers would

have an expectation that they would have access to that information in the first place is kind of absurd," he said.

"In many ways, I think this bill is overkill," said David Kight, who specializes in social media law at Spencer Fane Britt & Browne in Kansas City, Mo. "In my experience, most employers aren't out there looking for this stuff."

He questioned what might happen in a more common occurrence - where managers learn something about current employees they're connected to on social media. What if, for instance, an employee calls in sick and their boss learns through Facebook the worker had been out partying the night before?

"Everybody knows everything that goes on in social media," Kight said, "because we're all connected."

Some analysts worry that the Kansas legislation stops short on one critical point. Under the current language, employers could ask an employee to disclose digitally stored content, including email, if it's part of a misconduct investigation.

"That exception seems pretty large to me," said Tedrick Housh, a social media law specialist Lathrop & Gage.

Kansas state Rep. Tom Sloan said comments posted on Facebook for family and friends should not be taken into account by an employer. But it might be a different situation if someone is menacing their colleagues on [social media](#).

"The Legislature tries to reasonably balance privacy rights of the individual with the greater desire to have openness of communication," Sloan said.

In the Kansas House, the bill will go to the commerce committee, which is chaired by Rep. Marvin Kleebe, a Republican who runs a staffing and placement service. He doesn't believe many employers use Facebook to search applicants' backgrounds.

"We've never done it," he said. "Never saw any use in it."

Finney, one of the legislators pushing for the privacy measures, understands why employers might research applicants using Facebook.

Yet she doesn't think that justifies peering deeply into their accounts.

"It goes back," Finney said, "to a privacy violation."

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