

# Lawmakers hope to stop pressure to share access to social media

April 24 2013, by Jason Stein

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Some colleges and employers around the country are prying open applicants' private online accounts - a trend that two lawmakers want to stop in Wisconsin. Their draft bill would block employers, landlords and universities from pressuring job seekers, tenants or aspiring college athletes from being required to turn over their passwords to their email accounts or social media sites such as Facebook or Twitter. The bill would still allow these groups to look at applicants' or students' public postings on the Internet.

Bradley Shear, an attorney who has consulted on and advocated for similar legislation in other states, said the practice is the modern equivalent of requiring job applicants or young students to turn over their [mail](#) and diaries or allow eavesdropping on their phone calls.

"We're just at the tip of the iceberg with these things and it's happening around the country and it's much more prevalent than people realize," said Shear, who has advised universities, businesses and professional sports franchises on the issues.

The growth in social media is provoking more skirmishes between the warring armies representing [individual rights](#) and privacy on one side and order and efficiency on the other. To try to maintain the right balance between those priorities, legislators around the country are moving to adjust [state laws](#).

Since last year, nine states - California, Delaware, Illinois, Maryland,

Michigan, New Jersey, Arkansas, New Mexico and Utah - have moved to ban certain groups such as employers or schools from requesting that their students or workers turn over their social media accounts and passwords, according to the [National Conference of State Legislatures](#). Legislation is pending in at least 35 states, the group reports.

One unusual aspect of the legislation is that it's been passed in both Democratic and Republican states and has received bipartisan support. That's true in Wisconsin, where lead sponsors Rep. Melissa Sargent, D-Madison, and Rep. Garey Bies, R-Sister Bay, are working together on a bill that is currently circulating among other lawmakers to co-sponsor.

Sargent said she has heard directly from young constituents who have faced social media questions in employment interviews. The employers weren't just looking at the applicants' public Facebook profile but asking to see information that was part of a private account that could normally only be viewed by the applicant and his or her approved friends.

"I had some students who ... had been asked to provide this information in both applications and in interviews," Sargent said.

Applicants were free to refuse the request but worried it could hurt their chances of getting the position in a tight labor market where good jobs are hard to find, Sargent said.

For now, top Republicans are remaining cautious about the bill, though Sargent said several other GOP lawmakers are taking a serious look at joining Bies in backing it. Assembly Speaker Robin Vos, R-Rochester, is "still reviewing the legislation," spokeswoman Kit Beyer said. Gov. Scott Walker will review the bill if it reaches his desk, spokesman Tom Evenson said.

Employers in other states have asked for login information and

passwords for Facebook on applications or asked employees to log in so the employer can essentially look over their shoulder.

The Maryland Department of Corrections sought passwords to check job applicants' private Facebook posts for criminal or gang activity until the American Civil Liberties Union complained and that state's Legislature passed a bill last year to end the practice, according to media reports. The City of Bozeman, Mont., also drew attention for seeking passwords for job applicants' social networking sites.

Shear said he's aware of at least two dozen universities that demand social media logins of their student athletes or require them to "friend" a coach so the universities can monitor the accounts for possible crimes or violations of NCAA rules. The practice is widespread enough that companies such as Varsity Monitor have sprouted up to handle this monitoring job for universities.

Athletic directors have their reasons - the University of North Carolina, for instance, faced NCAA sanctions last year for program violations after a player's tweet led to an investigation. It's become routine for athletes' Twitter posts to prove embarrassing to themselves and their schools.

The University of Wisconsin-Madison doesn't engage in the kind of monitoring that would be prohibited by the legislation, spokesman Greg Bump said. Justin Doherty, a spokesman for UW-Madison's Athletic Department, also said he's not aware of any of the university's sports programs requiring athletes to friend their coaches.

"Our approach has been more to teach the positive and mature ways to use social media," Doherty said.

Like employers and schools, other parties such as landlords might also

be tempted to turn to [Facebook](#) to look for clues of drug use or a party lifestyle. Social media can also reveal a person's age, religious beliefs, sexual orientation and medical issues, any of which could be used by a landlord or others to discriminate.

Sargent said that her bill also could serve employers, landlords and schools by providing clear rules about what is and isn't acceptable when dealing with the online accounts of tenants or other applicants.

The legislation, for instance, doesn't stop institutions from monitoring what employees or others post publicly using social media. Employers and others could also still regulate what employees do on their work computers and cellphones.

Among the other exceptions, employers could also still investigate whether employees had transferred proprietary data to online accounts such as their email.

In exchange, the bill would make clear that employers and other groups don't have a duty to check their employees' personal email and other accounts and shouldn't be held liable for not monitoring that private information.

Shear said that makes much more sense for universities and employers than to try to gather reams of private data that could turn out to have a double edge. Once schools have access to information that could tip them off to a crime or other violation, they might become liable if they miss the clue and fail to act.

"People don't realize that with access comes responsibility," Shear said.

Mike Broeker, deputy athletic director at Marquette University, said his school has also steered away from hiring [social media](#) monitors. Instead,

the school relies on the old-fashioned approach of expecting good conduct both in and out of cyberspace. If that fails, school officials will still find out soon enough, he said.

"It's going to get to us," he said.

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Citation: Lawmakers hope to stop pressure to share access to social media (2013, April 24)  
retrieved 25 April 2024 from

<https://phys.org/news/2013-04-lawmakers-pressure-access-social-media.html>

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