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## COMMENTS IN SUPPORT OF 14-S 2095 – SOCIAL MEDIA PRIVACY March 13, 2014

Nationwide, employers and schools nationwide are increasingly demanding that employees, applicants, and students disclose the passwords to their private social media accounts, log into those accounts in the presence of the employer or school official, or connect their profile with the profile of an employer or school official. Students and employees have a right to privacy in their non-work or non-school time, and that right extends to the password-protected information they have online.

Just as no employer or school official has the right to access an employee or student's personal mail at their home, they should not be able to access any information not intended to be viewed by the public at large. Neither should they have access to the personal information of an employee or student's friends and family members, as they do when accessing a social media account. Further, accessing a protected social media site may expose significant information about an applicant which potential employers are currently not permitted to ask during a job interview, including the age and religion of an applicant. Access to this information may result in discrimination against an applicant, and a lawsuit against an employer.

This legislation does not prohibit employers or schools from accessing any information contained on open, public social media profiles, nor does it prohibit employees or students from willingly connecting their profile with that of an employer or school official. The legislation similarly does not bar employees from conducting Internet background checks of employees, or prohibit an employer or school official's ability to monitor an employee or student's work or efficiency.

Fourteen states<sup>1</sup> have already barred employers from requiring social media information, and ten<sup>2</sup> have done the same for schools. Much of the language in this legislation is similar to the laws in these states. Twenty-six states are this year considering legislation to adopt one or both provisions of this bill. In 2013, the House unanimously approved this legislation, as did the Senate Judiciary committee; unfortunately, it became a casualty of the last day of the session and never received a Senate floor vote.

This legislation simply updates the existing privacy rights of employees and students to adapt to changes in technology. Any activities or communication that are not intended for public consumption are private, and this legislation ensures activities taking place online receive no less

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<sup>1</sup> Maryland, Illinois, Michigan, Arkansas, New Mexico, Utah, California, Colorado, Nevada, New Jersey, New Mexico, Oregon, Washington, Wisconsin.

<sup>2</sup> Delaware, California, Illinois, Michigan, New Jersey, Arkansas, New Mexico, Utah, Oregon, Wisconsin.

privacy protection than those taking place offline. The ACLU of Rhode Island strongly supports this legislation and encourages the committee's favorable consideration