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Joint Committee on Labor & Workforce Development
Sen. Patricia Jehlen & Rep. Paul Brodeur, Chairs

SUPPORT: H.1628/S.1055

THE SOCIAL MEDIA PRIVACY ACT — PROTECTING EMPLOYEES AND STUDENTS

Dear Senator Jehlen, Representative Brodeur, and members of the committee:

The ACLU of Massachusetts supports H.1628/S.1055, *An Act relative to social media privacy protection*, and urges this committee to advance it swiftly. This legislation would address a disturbing national trend: demands from employers and schools for access to the password-protected private social media accounts of employees, students, and applicants.¹

Massachusetts should join the 26 other states that have already passed legislation to protect social media privacy in the workplace, and the 16 other states that have passed legislation to protect social media privacy at educational institutions.²

Accessing an individual's personal social media account constitutes a serious invasion of privacy. Online activity should receive the same privacy protections as offline activity. Employers don't have authority to read their employees' diaries or mail, listen in on private chatter at home among friends, or look at their private videos and photo albums. This proposal ensures they cannot do the electronic equivalent.

It is wrong for employers to demand that a job applicant or employee turn over the password to a social media account or require her to log in and provide a tour of her Facebook page or Instagram account. CEOs and supervisors should not require workers to "friend" them so they can access levels of social media activity unavailable to the general public.

The privacy line should be clear: any communications not intended to be viewable by the general public should be out of bounds for employers. This is true even for people who make public much of their social media content, because they may also use private messaging features. No one should be forced to disclose private communications in exchange for a wage.

¹ These bills apply to both employers and schools, but we focus for this committee on the provisions addressing employers, employees, and job applicants. We believe the same protections are also needed in the school context and encourage the committee to advance the entire bill.

² National Conference of State Legislatures, *State Social Media Privacy Laws*, last updated 11/6/2018. <http://www.ncsl.org/research/telecommunications-and-information-technology/state-laws-prohibiting-access-to-social-media-username-and-passwords.aspx>

Allowing employers to delve into a worker's private social media also affects the privacy of friends, family, and anyone else with whom that person may have communicated or connected online.

The Social Media Privacy Act would not impact employers' ability to search for publicly available information about applicants, or see what they've made public on social media. Nor would it limit employers' ability to control employees' use of company equipment or work-related social media accounts. It simply aims to protect truly private communication.

The Senate has twice passed this legislation unanimously. We hope you will give it a swift favorable report to move it forward again this year, and prioritize enacting it into law. We would welcome the opportunity to answer questions and be a resource to the committee. Thank you.