

House Economic Matters Committee

February 15, 2012

Hearing Regarding House Bill 364

SUPPORT

Greetings Legislators,

My name is Robert Collins and I am a 30-year-old Nursing Student at Coppin State University. I was employed with the State of Maryland since 2004 with the Department of Health and Mental Hygiene from September 2004 until July 2007 when I accepted a position of Correctional Supply Officer at Patuxent Institution. I worked at Patuxent until my mother died in November of 2009. At that time my healthcare provider and I deemed it most appropriate for me to take a leave of absence to deal with the various challenges I began to endure with the loss of my mother. In July of 2010 I applied for and was granted reinstatement to State employment, however I had to wait for a position to become available to resume my service. As a condition of reinstatement in November of 2010 I was informed that I would have to undergo a process called “recertification” which involved being fingerprinted again and undergoing an extensive background check. All of this was familiar to me as it was identical to the procedure I underwent during my initial application for the Correctional Supply Officer position in 2007. The process progressed smoothly and without incident until my sit-down interview with the investigator at DOC’s Centralized Hiring Unit.

At the outset of the interview the investigator asked me if I would cooperate by answering all questions as completely and honestly as possible and I responded yes. During his course of questioning I was stunned to be asked a question which was new, and in my opinion, invasive and illegal. The investigator asked me if I had any social media accounts. I responded honestly and told him yes, as I intended to be forthright, transparent and cooperative in the process, as I needed my job in order to be able to provide for my family. He then proceeded to ask me which social media sites I was a member of. I told him that I only had a Facebook page. He then said, "what is the password". I said, "you can't be serious." He said, "I am serious as a heart attack." I did not want to do it, but because I really needed my job and he implied that this was a condition of recertification, I reluctantly gave him the password. He then proceeded to login to my account using my private credentials. I asked him, why are you logging onto my account and what are you looking for, what are you doing? With the back of the computer facing me, he said I am looking through your messages, on your wall and in your photos to make sure you are not a gang member or have any gang affiliation. I was mortified. Again, I only cooperated because there was a strong inference and implication that my compliance was compulsory to me being reinstated to my position. I left that interview and called the AFSCME union and the American Civil Liberties Union as I was sure these actions must violate some law on the local, state, or federal level.

I vehemently object to any employer being able to demand, ask, or request any applicant, employee, or other associate to view their personal and private communications. Facebook and other social media platforms offer their users multiple

layers of security to ensure their privacy and to ensure that individuals who are unwanted or uninvited are not allowed to access information listed in the profile of the social media member. Examples of this information are personal interests, sexual orientation, political affiliation, and religion. This is information that an employer is not otherwise allowed to request by labor law as it could be used in a biased and prejudicial manner. Further, the discourse on Facebook or any other Social Media platform is intended for the viewing of only those friends who have been approved by the member. As long as a person is not making threats to the safety or well being of others, he/she should be able to speak freely and openly, as this is a basic right afforded to US citizens by the Constitution.

Furthermore, I am concerned that investigators or human resources officers could then use information listed on a person's news feed or wall to gain information about friends of the applicant or employee, thus invading the privacy of these third parties. This simply should not be allowed. In addition, just because an individual is being interviewed for employment at an agency does not mean that all of his or her social media friends give up their privacy.

Distinguished panel, you have an opportunity to pass landmark legislation which will preserve the right of the employers, but more importantly the right of the employee. Although most employees devote a third of their lives to their vocation, at the end of the day they are still individuals. Citizens should be allowed to securely communicate electronically using any social media platform without the worry of the information falling into the hands of employers, or other individuals who were not intended or

otherwise authorized to have access to it. Passing this legislation will have profound effects, drawing a clear line that demarks the rights of the individual and the employee. Passage of this legislation will protect me, you, our families and friends, and all of your constituents from privacy intrusions, fear of retaliation, or being denied opportunities for growth and advancement because of personal pictures or statements intended to be shared only with selected friends.

In conclusion I would like to state that I believe that a social media account secured with all of the security features provided for that particular site is no less secure than your locked home. You look through your peephole and only allow in the people whom you choose. When you send postal mail you do so with the confidence that it is a federal offense for any person other than the addressee to open it and you assume you will be afforded a certain level of confidentiality. Social media is not the exception to this but a mere extension in my view. I urge you to do your part to preserve citizens' right to free, unfettered, and uncensored speech without the fear of it being used against them in a professional or educational setting. Thank you.