
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

AB 1331 (Elhawary) - Workplace surveillance

Version: July 17, 2025

Urgency: No

Hearing Date: August 18, 2025

Policy Vote: L., P.E. & R. 4 - 1, JUD. 9 - 2

Mandate: No

Consultant: Robert Ingenito

Bill Summary: AB 1331 would regulate the use of workplace surveillance tools, by both public and private employers, as specified.

Fiscal Impact:

- This bill would result in costs to the State as a direct employer to revise policies and ensure the use of any existing tools comply with its requirements (General Fund or special fund). The magnitude of such costs is unknown, and would be driven by the use of workplace surveillance tools across the State's roughly 200 departments and agencies.
- The Department of Industrial Relations (DIR) indicates that it would incur first-year costs of \$1.23 million, and \$1.67 million annually thereafter, to enforce the provisions of the bill. (Labor Enforcement and Compliance Fund).
- By authorizing public prosecution to enforce worker privacy rights, this bill could result in potentially significant cost pressures to the courts; the magnitude is unknown (Trial Court Trust Fund (TCTF)). The specific number of new actions that could be filed under the bill also is unknown; however, it generally costs about \$10,500 to operate a courtroom for an eight-hour day. Courts are not funded on the basis of workload, and increased pressure on TCTF may create a need for increased funding for courts from the General Fund. The enacted 2025-26 budget includes \$38 million in ongoing support from the General Fund to continue to backfill TCTF for revenue declines.
- This bill could result in increased penalty revenue to the State; the magnitude is unknown.

Background: Workplace surveillance tools are technologies used by employers to monitor and evaluate things such as workflow and employee activities and performance. Common examples include keystroke logging software, which tracks keyboard activity to gauge productivity, and screen monitoring tools that capture screenshots or live feeds of employee screens. Email and communication monitoring systems are also widely used to scan messages for sensitive information or inappropriate content. GPS tracking is used to monitor employees' location and movement, both in the field and in factories and other workplaces. Additionally, video surveillance cameras in offices or warehouses can monitor physical behavior and security. In recent years, some employers are even requiring workers to wear tracking tools that monitor not only location and movement,

but biometric information. These tools aim to enhance productivity and security; at the same time, however, they raise concerns in several areas, including privacy.

Proposed Law: This bill, among other things, would do the following:

- Prohibit an employer, unless directed by a court order, from using a “workplace surveillance tool” to monitor or surveil workers, including data collection on the frequency of a worker’s use of those areas, in the following employee-only, employer-designated areas: (1) bathrooms, (2) locker rooms, (3) changing areas, (4) breakrooms, (5) lactation spaces., and (6) cafeterias.
- Provide that a worker shall have the right to leave behind workplace surveillance tools that are on their person or in their possession when entering the above off-duty areas and public bathrooms or during off-duty hours, including meal periods, unless a worker is required to remain available during meal or rest periods pursuant to federal law or existing state law.
- Authorize an employer, notwithstanding the above provisions, to do all of the following: (1) for worker safety purposes only, use video cameras to record breakrooms, employee cafeterias, or lounges, subject to specified requirements, (2) use workplace surveillance tools that passively surveil workers in an area in a work area not listed above even if an off-duty worker may be present, as long as the worker is made aware in advance that a workplace surveillance tool is in use, and (3) check workplace surveillance tools for the one-time entry and exit in the off-duty areas listed for health and safety purposes, as long as it is not used to monitor the frequency of a worker’s use of those areas.
- Prohibit an employer from requiring a worker to physically implant a device that collects or transmits data, including a device that is installed subcutaneously in the body.
- Require, on a multiemployer jobsite, the controlling employer to post a notice at the jobsite providing a general description of the types of activities that may be monitored or surveilled and for what purposes. This notice satisfies the requirement for any employer whose employees perform work on that jobsite.
- Specify that that an employer is not in violation hereof in any of the following circumstances: (1) a worker brings a workplace surveillance tool into an off-duty area listed because it is required to access a locked or secured area, (2) a worker uses a workplace surveillance tool to access a locked or secured area during off-duty hours, (3) a worker voluntarily chooses to bring a workplace surveillance tool into an off-duty area listed, and (4) a worker voluntarily keeps a workplace surveillance tool on their person during off-duty hours.
- Prohibit an employer from denying an employee the rights hereunder or discharging, threatening to discharge, demoting, suspending, or in any manner discriminating against an employee for using, or attempting to use, the employee’s rights hereunder, filing a complaint with DIR or alleging a violation, cooperating in an investigation or prosecution of an alleged violation, or opposing any policy or practice or act that is prohibited hereby.

- Provide that, in addition to any other remedy, an employer in violation is subject to a civil penalty of \$500 per employee for each violation. The Labor Commissioner may also enforce this section, including investigating an alleged violation, and ordering appropriate temporary relief to mitigate a violation or maintain the status quo pending the completion of a full investigation or hearing, as provided, including issuing a citation against an employer in violation and filing a civil action. It may also be enforced by a public prosecutor, as provided.
- Clarify that it does not limit the authority of the Attorney General, a district attorney, or a city attorney, either upon their own complaint or the complaint of any person acting for themselves or the general public, to prosecute actions, either civil or criminal, for violations, or to enforce the provisions thereof independently and without specific direction of the Labor Commissioner or the division.
- Provide that it does not prohibit any employer from using workplace surveillance tools as required by federal law or existing state law and does not authorize any employer to use workplace surveillance tools as prohibited by federal law or existing state law.
- Exempt employers that do the following: (1) develop products for national security, military, space, or defense purposes, and (2) develop aircraft for operation in national airspace.
- Define the relevant terms, including
 - “Workplace surveillance tool” means a system, application, instrument, or device that collects or facilitates the collection of worker activities, communications, actions, biometrics, or behaviors, or those of the public that are capable of passively surveilling workers, by means other than direct observation by a person, including, but not limited to, video or audio surveillance, electronic workplace tracking, geolocation, electromagnetic tracking, photoelectronic tracking, or utilization of a photo-optical system or other means. “Workplace surveillance tool” does not include smoke or carbon monoxide detectors or weapon detection systems that automatically screen a person’s body.
 - “Employer” means a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, benefits, other compensation, hours, working conditions, access to work or job opportunities, or other terms or conditions of employment, of any worker. This includes an employer’s labor contractor. “Employer” includes private entities and public entities, including all branches of state government, or the several counties, cities and counties, and municipalities thereof, or any other political subdivision of the state, or a school district, or any special district, or any authority, commission, or board or any other agency or instrumentality thereof.

Related Legislation:

- SB 7 (McNerney, 2025), mentioned above, would regulate the use of automated decision systems (ADS) in the employment setting. The bill is currently pending in the Assembly Appropriations Committee.
- SB 503 (Weber Pierson, 2025) would require the creation of an advisory board related to the use of AI in health care services. The bill is currently pending in the Assembly Appropriations Committee.
- AB 1018 (Bauer-Kahan, 2025) would, among other things, regulate the development and deployment of an ADS used to make consequential decisions, as defined. The bill is currently pending in this Committee.
- AB 1221 (Bryan) would have required an employer, at least 30 days before introducing a workplace surveillance tool, as defined, to provide a worker who will be affected with a written notice. The bill would have also prohibited an employer from using certain tools, including one that incorporates facial, gait, or emotion recognition technology. The bill would have required the LC to enforce these provisions, authorized an employee to bring a civil action for violations, and authorized a public prosecutor to also enforce these provisions. The bill was held under submission on the Suspense File of the Assembly Appropriations Committee.
- AB 2885 (Bauer-Kahan, Chapter 843, Statutes of 2024) established a uniform definition for “artificial intelligence,” among other terms, in California law.
- AB 2930 (Bauer-Kahan, 2024) would have regulated the use of ADSs in order to prevent “algorithmic discrimination.” This bill would have established the right of individuals to know when an ADS is being used, the right to opt out of its use, and an explanation of how it is used. AB 2930 died on the Senate inactive file.
- SB 1446 (Smallwood-Cuevas, 2024) would have prohibited a grocery or retail drug establishment from providing a self-service checkout option for customers unless specified conditions are met. SB 1446 also included a requirement that a grocery retail store or retail drug establishment that intended to implement a consequential workplace technology, as defined, must notify workers, their collective bargaining representatives, and the public at least 60 days in advance of the implementation of the technology with a general description of the technology and the intended purpose of the technology, as specified. SB 1446 was held in the Assembly Rules Committee.

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