

THIRD READING

Bill No: AB 1331
Author: Elhawary (D), et al.
Amended: 8/28/26 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/25/25
AYES: Smallwood-Cuevas, Cortese, Durazo, Laird
NOES: Strickland

SENATE JUDICIARY COMMITTEE: 9-2, 7/15/25
AYES: Umberg, Arreguín, Ashby, Caballero, Durazo, Laird, Wahab, Weber
Pierson, Wiener
NOES: Niello, Valladares
NO VOTE RECORDED: Allen, Stern

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/29/25
AYES: Caballero, Cabaldon, Grayson, Richardson, Wahab
NOES: Seyarto, Dahle

ASSEMBLY FLOOR: 55-15, 6/5/25 - See last page for vote

SUBJECT: Workplace surveillance

SOURCE: California Federation of Labor Unions

DIGEST: This bill prohibits an employer, both public and private, from using a workplace surveillance tool to monitor or surveil employees in a bathroom located in the workplace.

Senate Floor Amendments of 8/27/26 1) add and define the term “artificial intelligence”; 2) clarify the authorized use of a workplace surveillance tool when it is required to access a locked or secured bathroom; 3) clarify that workplace surveillance tools shall not have physically embedded or attached artificial intelligence; and 4) strikes the peace officer exemption in the bill.

ANALYSIS:

Existing law:

- 1) States that the “right to privacy is a personal and fundamental right protected by Section 1 of Article I of the Constitution of California and by the United States Constitution and that all individuals have a right of privacy in information pertaining to them.” Further states these findings of the Legislature:
 - a) The right to privacy is being threatened by the indiscriminate collection, maintenance, and dissemination of personal information and the lack of effective laws and legal remedies.
 - b) The increasing use of computers and other sophisticated information technology has greatly magnified the potential risk to individual privacy that can occur from the maintenance of personal information.
 - c) In order to protect the privacy of individuals, it is necessary that the maintenance and dissemination of personal information be subject to strict limits. (Civil Code §1798.1)
- 2) States that advances in science and technology have led to the development of new devices and techniques for the purpose of eavesdropping upon private communications and that the invasion of privacy resulting from the continual and increasing use of such devices and techniques has created a serious threat to the free exercise of personal liberties that cannot be tolerated in a free and civilized society. (Penal Code §630)
- 3) Prohibits a person from intentionally, and without the consent of all parties to a confidential communication, using an electronic amplifying or recording device to eavesdrop upon or record the confidential communication. For purposes of these provisions, defines a “person” to mean an individual, business association, partnership, corporation, limited liability company, or other legal entity. (Penal Code §632)
- 4) Establishes the California Consumer Privacy Act (CCPA), which grants consumers certain rights with regard to their personal information, including enhanced notice, access, and disclosure; the right to deletion; the right to restrict the sale of information; and protection from discrimination for exercising these rights. It places attendant obligations on businesses to respect those rights. (Civil Code §1798.100 et seq.)

- 5) Establishes the Consumer Privacy Rights Act (CPRA), which amends the CCPA and creates the California Privacy Protection Agency (PPA), which is charged with implementing these privacy laws, promulgating regulations, and carrying out enforcement actions. (Civil Code §1798.100 et seq.; Proposition 24 (2020))
- 6) Establishes within the Department of Industrial Relations (DIR), various entities including the Division of Labor Standards Enforcement (DLSE) under the direction of the Labor Commissioner (LC), and empowers the LC with ensuring a just day's pay in every workplace and promotes economic justice through robust enforcement of labor laws. (Labor Code §79-107)
- 7) Prohibits an employer from causing an audio or video recording to be made of an employee in a restroom, locker room, or room designated by an employer for changing clothes, unless authorized by court order. No recording made in violation of this prohibition may be used by an employer for any purpose. A violation of this section constitutes an infraction. (Labor Code §435)
- 8) Authorizes, until January 1, 2029, a public prosecutor to prosecute an action, either civil or criminal, for a violation of certain provisions of the labor code or to enforce those provisions independently. (Labor Code §181)

This bill:

- 1) Defines, among other terms, the following:
 - a) "Employer" means a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person.
 - i) "Employer" includes all branches of state government, or the several cities, 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.
 - ii) "Employer" includes a labor contractor of a person defined as an employer under (i) above and any entity or individual that contracts with the labor contractor for labor or services, including, but not limited to, a "client employer" under Labor Code Section 2810.3 or an individual or business entity that contracts for property services under Labor Code Section 238.5.

- iii) “Employer” includes a farm labor contractor, as defined in Labor Code Section 1682, or foreign labor contractor, as defined in Section 9998.1 of the Business and Professions Code.
 - b) “Workplace surveillance tool” means a system, application, instrument, or device that collects or facilitates the collection of employee data, activities, communications, actions, biometrics, or behaviors by means other than direct observation by a person, including, but not limited to, video or audio surveillance, continuous incremental time-tracking tools, geolocation, electromagnetic tracking, photoelectronic tracking, 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.
- 2) Prohibits an employer, unless directed by a court order, from using a workplace surveillance tool to monitor or surveil employees in a bathroom located in the workplace.
 - 3) Grants employees the right to leave behind workplace surveillance tools that are on their person or in their possession when entering a bathroom.
 - 4) Specifies that (3) above does not apply, and therefore a worker does not have the right to leave behind workplace surveillance tools that are on their person or possession, if the employee is required to remain available during meal or rest periods pursuant to federal or existing state law.
 - 5) Authorizes, notwithstanding the specified prohibitions, an employer to check workplace surveillance tools for the one-time entry and exit of bathrooms in the workplace.
 - 6) Specifies that an employer is not in violation of the bill’s prohibitions in either of the following circumstances:
 - a) An employee voluntarily chooses to bring a workplace surveillance tool into a bathroom in the workplace.
 - b) An employee brings a workplace surveillance tool, including a badge or personal alarm system, into a bathroom in the workplace because the employer has a policy that requires workplace surveillance tools to be in the employee’s possession while on work premises for identification or safety

purposes or if the tool is required to access a locked or secured bathroom, if the workplace surveillance tool meets both of the following conditions:

- i) Does not detect or record audio or video.
 - ii) Does not have physically embedded or attached artificial intelligence.
- 7) Authorizes the Labor Commissioner to enforce these provisions, 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 through the procedures set forth under existing law, as specified, including issuing a citation against an employer who violates these provisions and filing a civil action.
 - a) If a citation is issued, specifies that the procedures for issuing, contesting, and enforcing judgments for citations and civil penalties issued by the LC shall be the same as those set forth in existing law, as specified.
 - 8) Authorizes these provisions to also be enforced by a public prosecutor, as specified.
 - 9) Authorizes, in any civil action brought, the petitioner to seek appropriate temporary or preliminary injunctive relief, including punitive damages, and reasonable attorney's fees and costs.
 - 10) Specifies that in addition to any other remedy, an employer who violates these provisions shall be subject to a penalty of \$500 for each violation.
 - 11) Provides that an action may be brought in the superior court in any county in which the violation in question is alleged to have occurred or in which the employer transacts business.
 - 12) Provides that the above provisions are not intended to limit any other state or local law, as specified, that provides equal or greater protection to employees.
 - 13) Specifies that the above provisions are severable and if any provision is held invalid, that invalidity shall not affect other provisions or applications that can be given effect.
 - 14) Specifies that these provisions do not prohibit any employer from using workplace surveillance tools as required by federal or state laws or regulations, nor do they authorize an employer to use these as prohibited by existing federal or state law.

- 15) Specifies that these provisions do not prohibit the use of a workplace surveillance tool by an employer relating to either of the following:
 - a) The development of an aircraft for use in the national airspace.
 - b) The development of products or services for national security, military, space, or defense purposes.
- 16) Specifies, for purposes of (15) above, that these provisions apply only to the operations covered by a federal statute, federal regulation, or binding federal contract where the use of a workplace surveillance tool is reasonably necessary to comply with the federal statute, regulation, or the binding federal contract.
- 17) Finds and declares that the provisions of the bill address a matter of statewide concern rather than a municipal affair, therefore, section 1 applies to all cities, including charter cities.

Background

Need for this bill? According to the author: “As technology’s capabilities have increased, employer surveillance of workers has increased. Recent reports from ExpressVPN found that close to 80% of employers use monitoring software to track employee performance. With employer surveillance on the rise, workers have limited access to spaces in their workplace, that are not under constant surveillance. Employers use workplace surveillance to track, monitor, manage, and prevent workers from advocating for their rights. The new surveillance state at the workplace has proven to increase psychological distress, stress, and lower job satisfaction among workers.”

Related/Prior Legislation

AB 1883 (Bryan, 2026) would regulate the use of workplace surveillance tools by both public and private employers. Specifically, the bill would, with certain exceptions, prohibit an employer from using a workplace surveillance tool that uses artificial intelligence to, among other things, collect neural data or recognize an individual’s emotional state. AB 1883 is pending on the Senate Floor.

SB 947 (McNerney, 2026) would, among other things, prohibit an employer from using an ADS to perform certain actions and regulates allowable ADS uses. SB 947 is pending on the Assembly Floor.

SB 951 (Reyes, 2026) would, among other things, establish the California Worker Technological Displacement Act requiring a covered employer to provide advance notice when artificial intelligence or other automated technology causes significant workforce disruption. SB 947 is pending on the Assembly Floor.

[NOTE: Please see the Senate Labor, Public Employment and Retirement Committee analysis on this bill for more background information and information on more prior and related legislation.]

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- 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, but probably minor.

*Staff notes that the fiscal impacts noted above were provided for a previous version of this bill and do not reflect the amendments recently taken.

SUPPORT: (Verified 8/27/26)

California Federation of Labor Unions (Source)
Air Line Pilots Association, International
AFSCME California
Association of Flight Attendants - CWA
California Alliance for Retired Americans
California Civil Liberties Advocacy
California Coalition for Worker Power
California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Employment Lawyers Association
California Federation of Teachers AFL-CIO
California Immigrant Policy Center
California Nurses Association
California Professional Firefighters
California School Employees Association
California State Legislative Board of the SMART - Transportation Division
California State University Employees Union
California Teamsters Public Affairs Council
Center for Democracy and Technology
Center for Inclusive Change
Center on Policy Initiatives
Church State Council
Coalition for Humane Immigrant Rights
Coalition of Black Trade Unionists, San Diego County Chapter
Communications Workers of America, District 9
Community Agency for Resources, Advocacy and Services
Consumer Attorneys of California
Consumer Federation of California
Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
Inland Empire Labor Council
International Cinematographers Guild, Local 600, IATSE
International Lawyers Assisting Workers Network
Los Angeles Alliance for a New Economy
Los Angeles County Democratic Party
National Employment Law Project
National Union of Healthcare Workers
Northern CA District Council of the Int. Longshore and Warehouse Union
Oakland Privacy
Omidyar Network
Pillars of the Community

PowerSwitch Action
Rise Economy
San Diego Black Workers Center
Secure Justice
SEIU California State Council
Surveillance Resistance Lab
Teamsters California
TechEquity Action
The Center for AI and Digital Policy
The Workers Lab
Transport Workers Union of America, AFL-CIO
UNITE HERE! International Union, AFL-CIO
UNITE HERE! Local 11
United Food and Commercial Workers, Western States Council
Utility Workers Union of America
Warehouse Worker Resource Center
Workers' Algorithm Observatory
Working Partnerships USA
Worksafe

OPPOSITION: (Verified 8/27/26)

Acclamation Insurance Management Services
ADT Security Services
Aerospace and Defense Alliance of California
Agricultural Council of California
Allied Managed Care
American Petroleum and Convenience Store Association
American Property Casualty Insurance Association
Anaheim Chamber of Commerce
Associated General Contractors of California
Associated General Contractors – San Diego Chapter
Association of California Healthcare Districts
Association of California School Administrators
Association of Orange County Deputy Sheriff's
Brea Chamber of Commerce
CalBroadband
Calforests
California Alarm Association
California Alliance of Family Owned Businesses
California Apartment Association

California Association of Health Facilities
California Association of Joint Powers Authorities
California Association of Licensed Security Agencies, Guards & Associates
California Association of Recreation and Park Districts
California Association of School Business Officials
California Association of Sheet Metal & Air Conditioning Contractors National
California Association of Winegrape Growers
California Attractions and Parks Association
California Automatic Vendors Council
California Bankers Association
California Beer and Beverage Distributors
California Cardroom Alliance
California Chamber of Commerce
California Cities for Self-reliance Joint Powers Authority
California Construction and Industrial Materials Association
California Credit Union League
California Farm Bureau
California Fitness Alliance
California Fraternal Order of Police
California Fuels and Convenience Alliance
California Gaming Association
California Grocers Association
California Hospital Association
California Hotel & Lodging Association
California Landscape Contractors Association
California League of Food Producers
California Manufacturers and Technology Association
California Moving and Storage Association
California Municipal Utilities Association
California Pawnbrokers Association
California Pest Management Association
California Restaurant Association
California Retailers Association
California School Boards Association
California Special Districts Association
California State Association of Counties
California State Council of SHRM
California Statewide Law Enforcement Association
California Travel Association

Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
City of Concord
City of Orinda
Coalition of Small and Disabled Veteran Businesses
Colusa County Chamber of Commerce
Communities 4 California Cardrooms
Construction Employers' Association
Corona Chamber of Commerce
County of Fresno
County of Humboldt
County of Kern
County of Los Angeles Board of Supervisors
County of Mendocino
Dairy Institute of California
Dana Point Chamber of Commerce
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Flasher Barricade Association
Folsom Chamber of Commerce
Garden Grove Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Riverside Chambers of Commerce
Housing Contractors of California
Insights Association
LA Cañada Flintridge Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
League of California Cities
Lincoln Area Chamber of Commerce
Livermore Valley Chamber of Commerce
Long Beach Area Chamber of Commerce
Long Beach Police Officers Association
Los Angeles Area Chamber of Commerce
Morgan Hill Chamber of Commerce
Murrieta Wildomar Chamber of Commerce
National Association of Theatre Owners of California

National Electrical Contractors Association
National Health and Fitness Association
Northern California Power Agency
Oceanside Chamber of Commerce
Orange County Business Council
Pacific Association of Building Service Contractors
Paso Robles and Templeton Chamber of Commerce
Public Risk Innovation, Solutions, and Management
Rancho Cordova Area Chamber of Commerce
Rancho Cucamonga Chamber of Commerce
Redondo Beach Chamber of Commerce
Resource Recovery Coalition of California
Rocklin Area Chamber of Commerce
Roseville Area Chamber of Commerce
Rural County Representatives of California
Sacramento County Deputy Sheriff's Association
San Diego Regional Chamber of Commerce
San Jose Chamber of Commerce
Santa Barbara South Coast Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Security Industry Association
Sheriff's Employee Benefits Association
Shingle Springs/Cameron Park Chamber of Commerce
SHRM
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
TechNet
Torrance Area Chamber of Commerce
Tri County Chamber Alliance
Tulare Chamber of Commerce
United Chamber Advocacy Network
United Contractors
Urban Counties of California
Valley Industry and Commerce Association
Walnut Creek Chamber of Commerce & Visitors Bureau
Western Car Wash Association
Western Electrical Contractors Association
Western Growers Association
Wilmington Chamber of Commerce
Wine Institute

Yuba Sutter Chamber of Commerce

ARGUMENTS IN SUPPORT: According to the sponsors, the California Federation of Labor Unions:

“Artificial intelligence (AI) technologies go beyond video and audio surveillance and leaves workers vulnerable to surveillance by the boss while in bathrooms. This is not science fiction; AI surveillance is being used now. Halo Smart Sensor boasts that it is designed for “24/7 monitoring without video or audio...ideal for spaces like restrooms.” Halo claims it uses machine learning, and flags “aggression events” using key words. It also uses “infrared and thermal counters” to monitor occupancy. Throne, a “smart” porta-potty used by transit agencies in California, boasts 21 sensors inside the bathroom.

Workers deserve to use the bathroom without the boss getting real time AI updates on their location, use time, temperature, tone of voice, or key words that could include “union,” “wage claim,” or other words bosses can use to deny workers the right to organize their co-workers.”

ARGUMENTS IN OPPOSITION: A coalition of private employer organizations, including the California Chamber of Commerce, are opposed to the measure as it read before the recent amendments. Their opposition arguments, which may no longer apply to the current version of the bill, included:

“AB 1331 jeopardizes safety and security in every workplace:

- AB 1331 applies to both public and private employers, including schools, hospitals, gambling establishments, cities, counties, correctional facilities, small businesses, and more.
- AB 1331 permanently bans any use of AI in security systems used in a break room or cafeteria. This means banning the following:
 - Technology that pinpoints where there is an ongoing emergency, including gunshot detection or detection of sounds over a specific decibel
 - Technology that can detect in video footage when and where violence or theft occurred
 - Technology used to help find lost children in theme parks
- AB 1331 permanently bans any recording of audio in break rooms or cafeterias, including during an ongoing emergency

- AB 1331 allows workers (including any contractor who ever sets foot on premises) to request copies of video footage they are in, regardless of who else or what else is in that footage.
- AB 1331 functionally prohibits even simple use of AI”

ASSEMBLY FLOOR: 55-15, 6/5/25

AYES: Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Ward, Wicks, Wilson, Zbur, Rivas

NOES: Ávila Farías, DeMaio, Dixon, Ellis, Gallagher, Jeff Gonzalez, Hadwick, Hoover, Macedo, Patterson, Ramos, Sanchez, Ta, Tangipa, Wallis

NO VOTE RECORDED: Alanis, Castillo, Chen, Davies, Flora, Lackey, Nguyen, Ortega, Pacheco

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/28/26 11:28:44

**** END ****