

Date of Hearing: March 18, 2026

ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT

Liz Ortega, Chair

AB 1883 (Bryan) – As Amended March 12, 2026

SUBJECT: Workplace surveillance tools

SUMMARY: Prohibits an employer from using certain types of workplace surveillance tools, or using workplace surveillance tools to violate or prevent compliance with laws, or infer information about a worker’s legally-protected status or activities. Provides for a civil penalty, enforcement by the Labor Commissioner (LC) or a public prosecutor, and a private right of action. Specifically, **this bill:**

- 1) Prohibits an employer from using a workplace surveillance tool that does any of the following:
 - a) Prevents compliance with or violates any federal, state, or local labor, occupational health and safety, employment, or civil rights laws or regulations.
 - b) Identifies, profiles, or infers information about workers engaging in activity protected by state or federal law.
 - c) Incorporates any of the following technologies:
 - i. Emotion recognition technology.
 - ii. Facial recognition, unless it is used strictly to open a locked device or grant access to locked or secured areas.
 - iii. Gait recognition technology.
 - iv. Neural data collection.
- 2) Prohibits an employer from using a workplace surveillance tool to infer a worker’s protected status under the employment provisions of the Fair Employment and Housing Act (FEHA). (See (8) below in existing law.)

Enforcement:

- 3) Requires the LC to enforce the above provisions and authorizes enforcement by a public prosecutor.
- 4) Authorizes, alternatively to enforcement by the LC or a public prosecutor, a private right of action for a worker, or their exclusive representative, who has suffered a violation.
- 5) Authorizes, in any civil action brought pursuant to (3) or (4) above, the petitioner to seek appropriate temporary or preliminary injunctive relief, including punitive damages, and reasonable attorney’s fees and costs.

- 6) Subjects an employer who violates (1)-(2) above to a penalty of up to \$500 per employee for each violation.
- 7) Provides that an employee, the LC, or a public prosecutor may recover a penalty as a statutory penalty paid to the employee or a civil penalty, but not both, for the same violation.
- 8) Authorizes an action to 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 resides or transacts business.
- 9) Provides that the bill's provisions do not preempt any city, county, or city and county ordinance that provides equal or greater protection to workers who are covered by the bill's provisions.

Definitions:

10) Defines certain terms, including:

- a) "Agency" to mean the Labor and Workforce Development Agency. (Note: "Agency" does not appear in the bill's text; therefore, this definition is unnecessary and should be removed.)
- b) "Emotion recognition technology" to mean any technology that uses artificial intelligence to analyze a worker's biometric data and physical state to infer, predict, or modify a worker's internal emotional and behavioral state. Biometric data and physical state includes facial expressions, vocal intonation, gait, heart rate, and skin conductance.
- c) "Employer" to mean a person or governmental entity that 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, including all branches of state government, and all cities, counties, cities and counties, charter cities, charter counties, special districts, including transit districts, the University of California, the California State University, community college districts, school districts, or any other state or local governmental entity. "Employer" includes an employer's labor contractor.
- d) "Employment-related decision" to mean a decision by an employer that impacts wages, wage setting, benefits, compensation, hours, work schedule, performance evaluation, hiring, discipline, promotion, termination, job tasks, skill requirements, responsibilities, assignment of work, access to work and training opportunities, productivity requirements, workplace health and safety, and any other terms or conditions of employment. (Note: "employment-related decision" does not appear in the bill's text; therefore, this definition is unnecessary and should be removed.)
- e) "Facial recognition technology" to mean any technology that analyzes a worker's facial features to identify, verify, or track a worker in a still or video image.
- f) "Gait recognition technology" to mean any technology that analyzes the shape and movement of a worker's body when in motion to identify a worker.

- g) “Neural data” to mean information that is generated by measuring the activity of a worker’s central or peripheral nervous system, and that is not inferred from nonneural information.
- h) “Worker” to mean a natural person, an employee of, or an independent contractor providing service to, or through, a business or a state or local governmental entity in a workplace.
- i) “Workplace surveillance tool” to mean any system, application, instrument, or device that collects or facilitates the collection of worker data, activities, communications, actions, biometrics, or behaviors, or those of the public that are also capable of passively surveilling workers, 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, or that utilizes a photo-optical system or other means.

EXISTING LAW:

- 1) Establishes the Division of Labor Standards Enforcement (DLSE), under the direction of the LC, within the Department of Industrial Relations, and authorizes the LC to investigate employee complaints and enforce labor laws, as specified. Labor Code § 79 et seq.
- 2) Authorizes the DLSE to enforce the Labor Code and all labor laws of the state, the enforcement of which is not specifically vested in any other officer, board, or commission. Labor Code § 95(a).
- 3) Authorizes the LC to prosecute actions for the collection of wages, penalties, and demands, as specified. Labor Code § 98.3.
- 4) Authorizes the DLSE to investigate employers suspected of discharging or otherwise discriminating against an individual in violation of any law under the jurisdiction of the LC, as specified, and provides that workers may file a complaint with the DLSE within one year after the occurrence of the violation. Labor Code § 98.7.
- 5) Provides for a process for the LC to issue a citation after an investigation of a retaliation or discrimination complaint filed in accordance with (4) above. Labor Code § 98.74.
- 6) Authorizes, until January 1, 2029, a public prosecutor, as defined, 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 § 180 et seq.
- 7) Subjects an employer who pays or causes to be paid to any employee a wage less than the minimum wage to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed, as specified. Labor Code § 1197.1.
- 8) Makes it an unlawful employment practice under the FEHA, unless based upon a bona fide occupational qualification or security regulations, for an employer, because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, reproductive health decision making, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military

status of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions, or privileges of employment.

Government Code § 12940.

FISCAL EFFECT: Unknown

COMMENTS: Note: This bill is triple referred to the Assembly committees on Privacy and Consumer Protection, and Judiciary, upon passage out of this Committee.

Workplace surveillance is not new, but it is rapidly evolving amidst a worldwide AI revolution. While video cameras and microphones have been used in workplace surveillance for many years, the technology now available to employers is much more sophisticated. Employers today can use surveillance tools to not only track worker movements, but also compile vast amounts of data points and analyze them in real time. These technologies allow employers to control their worker's behavior, both implicitly and explicitly, as well.

The author provides the following examples of some of the types of workplace surveillance tools that fall under the prohibited categories in this bill:

- *Gait recognition technology:* “Capable of identifying an individual by analyzing their walking pattern and body shape, gait technology is an extremely powerful form of biometric authentication. KZero, a biometric authentication developer, offers gait recognition services to IT companies that partner directly with employers across a multitude of industries. Able to capture large swaths of biometric data, KZero touts that these tools can aid in ‘identifying health risks in individuals...information that may be included as a factor when determining insurance premiums for health and life insurance policies.’”¹
- *Emotion recognition technology:* “Emotion recognition uses biometric data such as a person’s facial expression, heart rate, skin conductance, or tone of voice to infer a person’s emotional state. Verint, formerly known as cogito, has developed emotion recognition technology that has been used on call center workers for MetLife and Humana. In both instances, call center workers were monitored by the emotion recognition tool to ensure the caller provided a happy and receptive tone when speaking to customers. The system would additionally provide a report to supervisors with details of which call center workers received the highest number of suggestions.”²
- *Neural recognition technology:* “The technology works by capturing the brain activity of a person’s central and peripheral nervous system. With this data, developers claim their systems can determine when a worker is concentrating, tired, or stressed. Emotive, a developer of neural recognition hardware and software, offers their tools to employers

¹ <https://kzero.com/resources/guides/authentication/gait-recognition/>

² <https://www.verint.com/cogito/>

under the premise that ‘understanding a worker’s true mental and cognitive state is the key to ... an improvement in ROI.’”³

- *Facial recognition technology*: “Tools such as Amazon’s Recognition⁴ have become easily accessible for businesses and individual consumers. Employers can use facial recognition for tracking attendance and tardiness, productivity, and location, even without traditional video cameras.”
- *Technology that infers information about workers engaging in protected activity*: Examples provided by the author include Whole Foods using heat maps based on predictive analytics to track store locations considered at high risk of unionizing, and Google using a surveillance system that sends an alert to management if there are internal meetings scheduled with 100 or more employees “partially to weed out employee organizing.”⁵ Additionally, the author provides the example of a new AI tool called Perceptyx, which collects and analyzes employee surveys, digital focus groups, and other information, and states it can create a “union vulnerability index” to help employers identify which workers have the highest risk of unionizing.⁶

Author’s Statements:

According to the author, “Workplace surveillance has evolved into highly invasive systems that track worker movements and collect massive amounts of data. Current laws fail to protect workers from these practices. AB 1883 will prohibit the use of invasive surveillance systems in the workplace, systems that pose profound risks not just to employee privacy but also to unaccountable discrimination. It also prohibits the use of surveillance tools to infer protected and personal information about workers, including immigration and health status, and the likelihood of unionizing or speaking up against workplace violations.”

The author adds that the bill promotes equity in that “While workers in nearly every industry are surveilled by a network of military grade surveillance tools, workers in low-wage sectors experience some of the most invasive forms of surveillance. Warehouse, grocery, hospitality, and transportation workers are constantly subjected to productivity and biometric tracking technology. Additionally, tools such as emotional recognition and facial recognition are notorious for incorrectly identifying people of color and may very well rely on a potentially biased data leading to false interpretations of behavior, voice, and emotion. By prohibiting these tools in the workplace, California can reduce instances of discrimination in the workplace.”

³ <https://www.emotiv.com/blogs/news/workplace-wellness-and-roi?srsIid=AfmBOoqyrrqjzGZbu50BqyW-CNe8z3VuuKEsab8UNe8mFbpA1D1EBDC>

⁴ <https://aws.amazon.com/rekognition/>

⁵ ‘They Were Spying On Us’: Amazon, Walmart, Use Surveillance Technology to Bust Unions - Newsweek (2021). <https://www.newsweek.com/they-were-spying-us-amazon-walmart-use-surveillance-technology-bust-unions-1658603>

⁶ Wiggin, Teke. 2025. Sage Journals. “Weaponizing the Workplace: How Algorithmic Management Shaped Amazon’s Antiunion Campaign in Bessemer, Alabama.” <https://journals.sagepub.com/doi/epub/10.1177/23780231251318389>

Arguments in Support

A coalition of labor groups are in support, including the California Federation of Labor Unions, and state that “AI enabled surveillance differs from traditional video and audio monitoring in several ways. For one, these tools strip workers of their biometric data, essentially committing a full-scale invasion of workers’ physical, mental, and emotional space at all hours of the day. Rather than requiring a human to monitor live surveillance feeds, today’s tools utilize active AI monitoring that are capable of monitoring workers with zero interruptions. Heart rate, perspiration, facial expressions, and eye movements are tracked and used as data points to target “unproductive” workers and to “minimize risk” in the workplace.

AI tools rely on black-box algorithms to surveil workers. Data from emotion recognition, neural sensors, and facial and gait sensors are not just observations, but analysis of the data collected. Not only is that data potentially unreliable, but it can have bias built in, further exacerbating discrimination and inequities. For example, tools that utilize emotion recognition technology may very well fail to understand cultural nuances of expression and may be trained on biased information that inaccurately tags certain forms of speech as “aggressive” or “inappropriate.” Similarly, facial recognition has a long history of failing to accurately recognize people of color, thus automating discrimination on a massive scale.”

Arguments in Opposition

A coalition of business organizations, including the California Chamber of Commerce, state in opposition that, “while we appreciate changes that were made to AB 1883 as compared to its predecessor, AB 1221 (2025) (Bryan), the bill still contains certain provisions that are not workable. For example, Section 1581(a)(1)(B) provides that employers cannot use a workplace surveillance tool that identifies workers engaging in protected activities. A security camera is going to capture whatever footage it captures, which could qualify as “identifying” someone under this language.”

“Proposed Section 1581(a) prohibits any use of facial recognition, gait recognition, or emotion recognition by a workplace surveillance tool. Again, while we appreciate the intent, there are certain legitimate uses that should be allowed, including:

- Tools used in emergency situations that can determine who is on premises
- Tools that use analytics to detect shouting or calls for help
- In-vehicle tools that may detect unsafe driving behavior
- Logistics tools that assess employees’ gait for purposes of evaluating the most efficient way to organize a warehouse or employee job duties
- Tools designed to identify theft, missing persons, or suspicious personnel on premises that would also capture employees or contractors on the premises.
- Tools that flag inappropriate behavior during customer interactions.”

Prior and Related Legislation

AB 1898 (Schultz) of 2026 would, among other things, require an employer to provide a written notice to an employee that a workplace AI tool, as defined, was used to assist the employer in making employment-related decisions or to surveil the workplace. Pending in this Committee.

SB 947 (McNerney) of 2026 would, among other things, prohibit an employer from using an automated decision system (ADS) to perform certain functions and would limit the purposes for and way in which an ADS may be used. The bill would authorize a worker to request, and require an employer to provide, a copy of the most recent 12 months of the worker's own data primarily used by an ADS to make a disciplinary, termination, or deactivation decision, as specified. The bill would require an employer that uses an ADS to assist in making a disciplinary, termination, or deactivation decision to provide the affected worker with a written post-use notice, as specified. Pending in the Senate Labor, Public Employment and Retirement Committee.

AB 1331 (Elhawary) of 2025 would limit the use of workplace surveillance tools, as defined, by employers, including by prohibiting an employer from monitoring or surveilling workers in employee-only, employer-designated areas, as specified. On the Senate Inactive File.

AB 1221 (Bryan) of 2025 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 a written notice that includes specified disclosures; created certain prohibitions and requirements related to the use of worker data, as defined; prohibited employers from using workplace surveillance tools in specified ways; and provided for enforcement by the LC, employees and representatives, and public prosecutors, and subjected employers in violation to a civil penalty. Held in the Assembly Appropriations Committee.

SB 7 (McNerney) of 2025 would have regulated the use of ADS in the employment setting. Among other things, this bill would have 1) required an employer to provide a written notice that an ADS is in use at the workplace to all workers that will foreseeably be directly affected by the ADS; 2) prohibited in some instances and in others limits the use of an ADS by an employer; 3) provided worker anti-retaliation protections for exercising their rights under these provisions; and 4) specified enforcement provisions that include penalties and relief for violations. Vetoed by Governor Newsom.

AB 1651 (Kalra) of 2022 would have established limitations on the use of data-driven technologies in the workplace by requiring employers to notify workers prior to data collection, initiating electronic monitoring, and deploying algorithms; as well as would have required the technology be used pursuant to a valid business practice and be job-related, and that employers conduct impact assessments with worker input for algorithms. Died in the Assembly Privacy and Consumer Protection Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Federation of Labor Unions, AFL-CIO (Sponsor)
Teamsters California (Co-Sponsor)
American Federation of State, County and Municipal Employees- California
California Conference Board of the Amalgamated Transit Union
California Conference of Machinists

California Federation of Teachers AFL-CIO
California Labor Federation, AFL-CIO
California School Employees Association
California State Legislative Board of the Smart - Transportation Division
Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
Oakland Privacy
Orange County Employees Association
Privacy Rights Clearinghouse
Unite-here, AFL-CIO
Utility Workers Union of America, AFL-CIO

Opposition

American Petroleum and Convenience Store Association
Associated General Contractors of California
Associated General Contractors San Diego
Association of California Healthcare Districts
California Assisted Living Association
California Association of Sheet Metal & Air Conditioning Contractors National Association
California Association of Winegrape Growers
California Automatic Vendors Council
California Chamber of Commerce
California Credit Union League
California Distributors Association
California Farm Bureau
California Grocers Association
California Hospital Association
California Landscape Contractor's Association
California Landscape Contractors Association
California League of Food Producers
California Manufacturers and Technology Association
California Manufactures & Technology Association
California Restaurant Association
California Retailers Association
California Special Districts Association
California State Association of Counties
California Trucking Association
League of California Cities
Los Angeles Area Chamber of Commerce
Resource Recovery Coalition of California
Rural County Representatives of California
Security Industry Association
Self Storage Association
Society for Human Resource Management California
Technet-technology Network
Urban Counties of California
Western Growers Association

Analysis Prepared by: Erin Hickey / L. & E. /