

## ASSEMBLY THIRD READING

AB 1883 (Bryan)

As Amended May 18, 2026

Majority vote

**SUMMARY**

Regulates an employer's use of workplace surveillance tools, as specified.

**Major Provisions**

- 1) Prohibits an employer from using a workplace surveillance tool on workers to do any of the following:
  - a) Prevent compliance with or violate any federal, state, or local labor, occupational health and safety, employment, or civil rights laws or regulations.
  - b) Infer information about workers engaging in activity protected by state or federal law.
  - c) Make inferences about an individual's emotional state.
  - d) Make inferences about an individual based on their gait.
  - e) Collect neural data.
- 2) Prohibits an employer from using facial recognition technology to make inferences about a worker for firing, deactivation, or disciplinary purposes.
- 3) 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).
- 4) Provides that 1)-3), above, do not prohibit an employer from using a workplace surveillance tool to ensure safety, provided that the tool does not incorporate artificial intelligence (AI) that makes inferences or predictions based on a worker's emotional, gait, neural data, protected status under Section 12940 of the Government Code, or about activity protected by state or federal law.

*Enforcement:*

- 5) Requires the Labor Commissioner (LC) to enforce the above provisions and authorizes enforcement by a public prosecutor.
- 6) 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.
- 7) Authorizes, in any civil action brought pursuant to 5) or 6), above, the petitioner to seek appropriate temporary or preliminary injunctive relief, including punitive damages, and reasonable attorney's fees and costs.
- 8) Subjects an employer who violates 1)-2), above, to a penalty of up to \$500 for each violation.

- 9) 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.
- 10) 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.
- 11) 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.
- 12) Provides that this bill does not apply to the use of a workplace AI tool or a workplace surveillance tool to the extent that use of the tool is required by, or reasonably necessary to comply with, a federal statute, federal regulation, or binding federal contract relating to any of the following:
  - a) The development of aircraft for use in the national airspace.
  - b) The development of products or services for national security, military, space, or defense purposes.
- 13) Applies the exemption in 12) above only to the operations covered by a federal statute, federal regulation, or binding federal contract.

*Definitions:*

- 14) Defines certain terms, including:
  - a) "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.
  - b) "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.
  - c) "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.
  - d) "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.
  - e) "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 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.

## COMMENTS

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 would be regulated by this bill:

- 1) *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.'"<sup>1</sup>
- 2) *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."<sup>2</sup>
- 3) *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 under the premise that 'understanding a worker's true mental and cognitive state is the key to ... an improvement in ROI.'"<sup>3</sup>
- 4) *Facial recognition technology*: "Tools such as Amazon's Recognition<sup>4</sup> 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."

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

<sup>2</sup> <https://www.verint.com/cogito/>

<sup>3</sup> <https://www.emotiv.com/blogs/news/workplace-wellness-and-roi?srsltid=AfmBOoqyrrqjzgZbu50BqyW-CNe8z3VuuKEsab8UNe8mFbpA1D1EBDC>

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

5) *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."<sup>5</sup> 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.<sup>6</sup>

### **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."

### **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

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<sup>5</sup> '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>

<sup>6</sup> 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>

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[(Bryan) of 2025], the bill still contains certain provisions that are not workable...

...Proposed Section 1581(a) prohibits any use of tools to determine emotional state. Again, while we appreciate the intent, there are certain legitimate uses that should be allowed, including:

- 1) In-vehicle tools that may detect unsafe driving behavior
- 2) Logistics tools that assess employees' gait for purposes of evaluating the most efficient way to organize a warehouse or employee job duties
- 3) Tools designed to identify theft or suspicious personnel on premises that would also capture employees or contractors on the premises
- 4) Tools that flag inappropriate behavior during customer interactions

We understand there are scenarios where there should be guardrails about how the tools should be used or when they can be used for an adverse employment action, but a blanket prohibition would impact legitimate uses of certain technologies."

### **FISCAL COMMENTS**

According to the Assembly Appropriations Committee:

- 1) Costs of an unknown, but likely significant amount, in excess of \$150,000, to the state as an employer to ensure an existing or future workplace surveillance tool is not used for a prohibited purpose, which may necessitate disposing of existing tools and procuring alternate tools, among other implementation measures (General Fund (GF) or special fund). The magnitude of costs depends on the prevalence of workplace surveillance tools across the state, with some agencies, such as the Department of Corrections and Rehabilitation, likely to incur significantly higher costs than others, given the agency's scope of work.

Similarly, likely significant costs to local government employers, which the state would not need to reimburse because this bill's new requirements for local agencies equally apply to the private sector.

- 2) The Department of Justice (DOJ) reports no significant impact from this bill, indicating DOJ is unlikely to experience an increase in litigation representing state agencies for alleged violations of this bill's prohibitions or pursue civil actions to enforce this bill's provisions as a public prosecutor.

- 3) Annual cost pressures of an unknown amount to the courts in additional workload by authorizing a new civil action against an employer that violates this bill's prohibitions (GF or Trial Court Trust Fund). It is unclear how many civil actions may be filed statewide and how much court time may be needed to resolve each case, but it generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on staff and the TCTF may create a demand for increased court funding from the GF. The state budget provides annual GF backfills to the TCTF to offset revenue reductions, totaling approximately \$117.3 million in fiscal year 2025-26.
- 4) Costs of an unknown, but likely significant amount, potentially in the millions of dollars, to the LC to enforce this bill's prohibitions (Labor Enforcement and Compliance Fund). The LC's primary mission is enforcement of the state's wage and hour laws and protecting employees from related retaliation, whereas this bill regulates employer conduct that is generally outside the usual scope of enforcement for the LC. For example, an employer that uses a security camera with AI technology that can detect an individual's unease may be subject to LC enforcement.

## VOTES

### **ASM LABOR AND EMPLOYMENT: 5-0-2**

**YES:** Ortega, Elhawary, Kalra, Lee, Arambula

**ABS, ABST OR NV:** Alanis, Chen

### **ASM PRIVACY AND CONSUMER PROTECTION: 11-2-2**

**YES:** Bauer-Kahan, Aguiar-Curry, Bryan, Irwin, Lowenthal, McKinnor, Ortega, Petrie-Norris, Ward, Wicks, Wilson

**NO:** Macedo, DeMaio

**ABS, ABST OR NV:** Hoover, Patterson

### **ASM APPROPRIATIONS: 10-1-4**

**YES:** Wicks, Aguiar-Curry, Calderon, Caloza, Fong, Mark González, Krell, Pellerin, Sharp-Collins, Solache

**NO:** Tangipa

**ABS, ABST OR NV:** Hoover, Dixon, Pacheco, Ta

## UPDATED

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