

CONCURRENCE IN SENATE AMENDMENTS

AB 1883 (Bryan)

As Amended August 21, 2026

Majority vote

SUMMARY

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

Senate Amendments

- 1) Remove the applicability of the bill's provisions to independent contractors and apply them instead only to employees.
- 2) Narrow the prohibition on an employer using a workplace surveillance tool that uses artificial intelligence (AI) on employees to only prohibit such tools that are capable of recognizing, or making inferences or predictions about, an individual's emotional state, or collecting neural data.
 - a. Delete the prohibition on an employer using a workplace surveillance tool that uses AI on workers that is capable of any of the following:
 - i. Preventing compliance with or violating any federal, state, or local labor, occupational health and safety, employment, or civil rights laws or regulations.
 - ii. Inferring information about workers engaging in activity protected by state or federal law.
 - iii. Making inferences about an individual based on their gait.
- 3) Delete the prohibition on an employer using facial recognition technology to make inferences about a worker for firing, deactivation, or disciplinary purposes.
- 4) Delete the prohibition on an employer using a workplace surveillance tool to infer a worker's protected status under the Fair Employment and Housing Act (FEHA).
- 5) Authorize, rather than require, the Labor Commissioner (LC) to enforce the bill's provisions.
- 6) Delete the private right of action for a worker, or their exclusive representative, who has suffered a violation under the bill.
- 7) Provide that an action brought pursuant to the bill's provisions 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*, rather than where the employer *resides*.
- 8) Define AI to mean "an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments."

- 9) Narrow the definition of "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, hours or working conditions of any person.
 - a. Provide that "employer" additionally includes a farm labor contractor, as defined; a foreign labor contractor, as defined; and any entity or individual that contracts with a labor contractor for labor or services, including a client employer, as defined, or an entity or individual that contracts for property services, as specified.
- 10) Make technical, clarifying and conforming changes.

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) *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."¹
- 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 under the premise that 'understanding a worker's true mental and cognitive state is the key to ... an improvement in Return on Investment (ROI).'"²

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."

¹ <https://www.verint.com/cogito/>

² https://www.emotiv.com/blogs/news/workplace-wellness-and-roi?srsId=AfmBOoqyrrqjzgZbu50BqyW-_CNe8z3VuuKEsab8UNe8mFbpA1D1EBDC

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."

Arguments in Opposition

The County of Fresno states in opposition that the bill "could vastly complicate the routine work of local governments, endanger our ability to perform essential public services, impede our ability to manage and respond to workplace violence threats, and make local governments vulnerable to waste, fraud, and abuse of public resources. We have fundamental concerns with this and other bills that aim to restrict how public agencies can use the tools defined as "workplace surveillance tools," which we believe are essential and, in many cases, routine tools used for security.

AB 1883 exposes public agencies to severe litigation risk and steep penalties and would allow employees or employee representatives to bring civil actions against public agencies for violating a law that is vague, sweeping, and littered with unintended consequences. In addition to punitive damages and attorney fees, this bill could cause public agencies to incur staggering penalties of \$500 per employee for each violation."

FISCAL COMMENTS

According to the Senate Appropriations Committee:

- 1) Estimated \$2.6 million in Fiscal Year (FY) 2026-27, \$2.5 million annually thereafter to the Division of Labor Standards Enforcement (DLSE) within the Department of Industrial Relations. The Labor Commission, as chief of the DLSE, enforces wage laws and retaliation laws whereas this bill will require regulating employer conduct. (Labor Enforcement and Compliance Fund)
- 2) Potentially significant costs to the courts to adjudicate new penalties depending on the numbers of employers charged and the factors unique to each case. An eight-hour court day costs approximately \$10,500 based on the hourly rate of court personnel including at minimum the judge, clerk, bailiff, court reporter, jury administrator, administrative staff, and jury per-diems. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources. The FY 2026-27 Budget appropriated \$70 million General Fund for this purpose (Trial Court Trust Fund, General Fund).

- 3) Likely minor, if any, costs to state entities found using workplace surveillance tools for prohibited purposes. (Special funds, General Fund)

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

ASSEMBLY FLOOR: 52-12-16

YES: Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Connolly, Davies, Elhawary, Fong, Gabriel, Garcia, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Papan, Patel, Pellerin, Petrie-Norris, Ramos, Ransom, Rogers, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ward, Wicks, Wilson, Zbur, Rivas

NO: Ávila Farías, DeMaio, Dixon, Ellis, Gallagher, Jeff Gonzalez, Hadwick, Johnson, Macedo, Sanchez, Tangipa, Wallis

ABS, ABST OR NV: Alanis, Carrillo, Castillo, Chen, Flora, Gipson, Hoover, Lackey, Pacheco, Patterson, Quirk-Silva, Celeste Rodriguez, Michelle Rodriguez, Blanca Rubio, Ta, Valencia

UPDATED

VERSION: August 21, 2026

CONSULTANT: Erin Hickey / L. & E. / (916) 319-2091

FN: 0004040