



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB0173

Introduced 1/31/2023, by Sen. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

820 ILCS 55/11 new

Amends the Right to Privacy in the Workplace Act. Provides that an employer who engages in any type of electronic monitoring of its employees shall give each employee who may be affected prior written notice of the types of electronic monitoring that may be used by the employer. Requires written notice to be given to an employee upon hiring or before an employer uses electronic monitoring equipment on the employer's premises. Requires the written notice to be acknowledged by the employee either in writing or electronically. Provides that when an employer has reasonable grounds to believe that an employee is engaged in conduct that either violates the law, violates the legal rights of the employer or the employer's other employees, or creates a hostile workplace environment, and electronic monitoring may produce evidence of this misconduct, the employer may conduct electronic monitoring without giving the required notice. Provides that the amendatory Act shall not apply to processes that are designed to manage the type or volume of incoming or outgoing electronic mail, telephone voicemail, or Internet usage that are not designed or intended to monitor or intercept the electronic mail, telephone voicemail, or Internet usage of a particular employee and that are performed solely for the purpose of computer system maintenance or protection.

LRB103 26009 SPS 52363 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Right to Privacy in the Workplace Act is
5 amended by adding Section 11 as follows:

6 (820 ILCS 55/11 new)

7 Sec. 11. Use of electronic monitoring.

8 (a) As used in this Section:

9 "Electronic monitoring" means the collection of
10 information on an employer's premises concerning employees'
11 activities or communications by any means other than direct
12 observation, including the use of a computer, telephone, wire,
13 or radio, or an electromagnetic, photo electronic, or photo
14 optical system. "Electronic monitoring" does not include the
15 collection of information for security purposes in common
16 areas of the employer's premises which are held out for use by
17 the public or any act that is prohibited under State or federal
18 law.

19 "Employee" means any individual permitted to work by an
20 employer in an occupation.

21 "Employer" has the meaning set forth in subsection (c) of
22 Section 3 of the Minimum Wage Law.

23 (b) Except as provided in subsection (c), an employer who

1 engages in any type of electronic monitoring of its employees
2 shall give each employee who may be affected prior written
3 notice of the types of electronic monitoring that may be used
4 by the employer. The written notice must be given to an
5 employee upon hiring or before an employer uses electronic
6 monitoring equipment on the employer's premises. The written
7 notice shall be acknowledged by the employee either in writing
8 or electronically.

9 (c) When an employer has reasonable grounds to believe
10 that an employee is engaged in conduct that either violates
11 the law, violates the legal rights of the employer or the
12 employer's other employees, or creates a hostile workplace
13 environment, and electronic monitoring may produce evidence of
14 this misconduct, the employer may conduct electronic
15 monitoring without giving the notice required in subsection
16 (b).

17 (d) Every employer shall post and keep posted, in one or
18 more conspicuous places on the premises of the employer where
19 notices to employees are customarily posted, a notice
20 concerning the types of electronic monitoring that may be
21 utilized by the employer. An employer with employees who do
22 not regularly report to a physical workplace, and instead work
23 remotely or travel for work, shall also provide the notice by
24 email to its employees or on a website, regularly used by the
25 employer to communicate work-related information, that all
26 employees are able to regularly access, freely and without

1 interference.

2 (e) The provisions of this Section shall not apply to
3 processes that are designed to manage the type or volume of
4 incoming or outgoing electronic mail, telephone voicemail, or
5 Internet usage that are not designed or intended to monitor or
6 intercept the electronic mail, telephone voicemail, or
7 Internet usage of a particular employee and that are performed
8 solely for the purpose of computer system maintenance or
9 protection.