



Sen. Sara Feigenholtz

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10300SB0173sam001

LRB103 26009 SPS 58419 a

1 AMENDMENT TO SENATE BILL 173

2 AMENDMENT NO. _____. Amend Senate Bill 173 by replacing
3 everything after the enacting clause with the following:

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 concerning any employee's activities or
11 communications by any means other than direct observation,
12 including the use of a computer, software, telephone, wire, or
13 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

1 the public or any act that is prohibited under State or federal
2 law.

3 "Employee" means any individual permitted to work by an
4 employer in an occupation, including, but not limited to,
5 full-time employees, part-time employees, temporary workers,
6 and contract employees. "Employee" also includes an unpaid
7 intern as described in items (i) through (iii) of paragraph
8 (1) of subsection (A) of Section 2-101 of the Illinois Human
9 Rights Act.

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

12 (b) Except as provided in subsection (c), an employer who
13 engages in any type of electronic monitoring of any employees
14 shall give each employee who may be affected prior written
15 notice of the types and frequency of electronic monitoring
16 that may be used by the employer. The written notice must be
17 given to an employee upon hiring or before an employer uses
18 electronic monitoring equipment. The written notice shall be
19 acknowledged by the employee either in writing or
20 electronically.

21 (c) When an employer has reasonable grounds to believe
22 that an employee is engaged in conduct that violates the legal
23 rights of the employer or the employer's other employees
24 related to their employment, or creates a hostile workplace
25 environment, and electronic monitoring is necessary to produce
26 evidence of this misconduct, the employer may conduct

1 electronic monitoring without giving the notice required in
2 subsection (b).

3 (d) Every employer shall post and keep posted, in one or
4 more conspicuous places on the premises of the employer where
5 notices to employees are customarily posted, a notice
6 concerning the types of electronic monitoring that may be
7 utilized by the employer. An employer with employees who do
8 not regularly report to a physical workplace, and instead work
9 remotely or travel for work, shall also provide the notice by
10 email to its employees or conspicuously on a website,
11 regularly used by the employer to communicate work-related
12 information, that all employees are able to regularly access,
13 freely and without interference.

14 (e) The provisions of this Section shall not apply to
15 processes that are designed to manage the type or volume of
16 incoming or outgoing electronic mail, telephone voicemail, or
17 Internet usage that are not designed or intended to monitor or
18 intercept the electronic mail, telephone voicemail, or
19 Internet usage of a particular employee and that are performed
20 solely for the purpose of computer system maintenance or
21 protection.

22 (f) An employer may not use electronic monitoring for the
23 purpose of interfering with employee rights, including the
24 right to organize under the National Labor Relations Act, 29
25 U.S.C. 151 et seq., or any other applicable State or federal
26 law authorizing employees to unionize or bargain

1 collectively.".