

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 949

H.P. 596

House of Representatives, March 2, 2023

An Act to Protect Workers from Employer Surveillance

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in black ink, reading "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative ROEDER of Bangor.
Cosponsored by Representatives: BOYER of Poland, FAULKINGHAM of Winter Harbor,
GERE of Kennebunkport, MALON of Biddeford, OSHER of Orono, SUPICA of Bangor,
WILLIAMS of Bar Harbor.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA §600-B** is enacted to read:

3 **§600-B. Employer surveillance**

4 **1. Employer surveillance defined.** For the purposes of this section, unless the context
5 otherwise indicates, "employer surveillance" means the use of trackers, cameras, task
6 software or other monitoring systems that track the productivity and keystrokes of
7 employees.

8 **2. Employer surveillance prohibition; exception.** An employer may not use
9 employer surveillance except as authorized under subsection 3.

10 **3. Employer surveillance limitations.** An employer may use employer surveillance if
11 it is strictly necessary to ensure employee health and safety or the security of employer data
12 and:

13 A. It is the least invasive means to accomplish that purpose;

14 B. It is limited to the smallest number of employees possible and collects the minimum
15 amount of employee data necessary;

16 C. The employer surveillance is conducted only after the employees have been notified
17 as required pursuant to subsection 8; and

18 D. The employee data collected is accessed only by authorized agents.

19 **4. Audiovisual monitoring restrictions.** An employer may not use audiovisual
20 monitoring in an employee's residence or personal vehicle or on the employee's property
21 as a means of employer surveillance.

22 **5. Employee personal devices.** An employee may decline a request by an employer to
23 install data collection or transmission applications on an employee's personal electronic
24 devices for the purposes of employer surveillance.

25 **6. Provide employee data upon request.** An employer shall provide to an employee
26 upon receipt of a verifiable request by the employee the following:

27 A. The purpose and sources of employee data collection;

28 B. The categories and data components of employee data retained by the employer;

29 C. Whether employee data collected is related to the employee's essential job functions
30 or employment decisions;

31 D. Whether employee data interacts with an automated decision system; and

32 E. The names of any 3rd parties from whom employee data is collected or to whom the
33 data is disclosed.

34 **7. Notice to prospective employee.** An employer using employer surveillance shall
35 provide a prospective employee during the employment interview process the information
36 contained in subsection 6.

37 **8. Notify employees if beginning surveillance.** An employer shall notify its
38 employees before beginning the use of employer surveillance.

9. Private right of action. A person aggrieved by a violation of this section has a private right of action for injunctive relief and recovery of civil penalties and attorney's fees.

SUMMARY

This bill prohibits employer surveillance unless the surveillance is strictly necessary for employee health and safety or the security of the employer, with certain limitations. It requires employers to provide, upon a verifiable request by an employee, data collected on the employee and certain information regarding that data. It specifies that an employer must provide notice to its employees prior to beginning employer surveillance. It provides that an employee has a private right of action.