

Insights, News & Events

# WORKPLACE SURVEILLANCE BILL CLEARS MAINE LEGISLATURE, AWAITS GOVERNOR'S NOD

Insights  
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The Maine Legislature recently passed a bill that could soon place new limits on employers' ability to conduct surveillance in the workplace and create new categories of enforcement action state labor officials. Due to the bill's late passage, the Legislature's adjournment, and parliamentary rules, LD 61 will sit on the Governor's desk until the next legislative session convenes in January. If Governor Mills does not veto the legislation within the first three days of that session, it will automatically become law and take effect 90 days after the conclusion of the next session – in approximately the late summer or early fall of 2026. While it awaits the Governor's action, employers should plan for possible impacts on their operations and policies.

## What the New Surveillance Law Would Do

LD 61 would prohibit employers from electronically monitoring employees without providing prior notice. Surveillance under the law includes monitoring through electronic devices or systems. However, it does *not* include the use of security cameras when used for a security or safety purpose, or GPS and other safety devices installed on employer-owned vehicles. These remain outside the scope of the law.

- The bill applies to both public and private employers, including the State of Maine.
- It defines "employee" broadly to cover anyone working for wages or other remuneration.

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- Importantly, the bill would generally ban audiovisual monitoring in an employee's personal residence, vehicle, or property – but would allow such monitoring when it is a legitimate part of the employee's job duties. This carveout is especially relevant to the personal care sector, which the bill exempts from several of its core restrictions.

LD 61 would also strengthen employee rights around personal technology. Employers would not be able to require employees to install tracking or data-collecting apps on personal phones or devices. Workers would be able to lawfully decline such requests without fear of retaliation. This would be especially important for professional employers who implement "Bring Your Own Device" (BYOD) policies that allow employees to access confidential data with personal devices, provided they install security software on those devices.

### **Notice and Enforcement**

The bill would require employers to notify employees in writing before surveillance begins, and to inform job applicants during the interview process if monitoring is in place. In addition, employers would need to provide all current employees written notice once per year confirming their surveillance practices.

Enforcement will fall to the Maine Department of Labor, which would have the ability to impose fines ranging from \$100 to \$500 per violation. Notably, lawmakers initially proposed a private right of action to be included in the bill which would have allowed aggrieved employees to file private lawsuits. But this provision did not survive committee amendments and thus only state agency officials would be able to enforce the provisions if it takes effect.

### **What Employers Should Do Now**

Although LD 61 is not yet law, employers should take some steps to prepare for the possibility.

- Begin reviewing your use of surveillance technologies – especially in remote work settings, BYOD environments, and home health or care-related roles.
- Businesses that require employees to install third-party software on their personal devices should take reasonable

steps to ensure that such software is not collecting employee data.

- Carefully evaluate policies involving GPS tracking, screen monitoring software, and personal device use to ensure they align with the bill's restrictions.
- If LD 61 is signed, you will need to prepare compliant disclosures, update handbooks, and revise onboarding materials.
- You will also need to train supervisors and HR personnel on what types of monitoring are allowed, and under what conditions.

## Conclusion

We will continue to monitor the bill's status and share updates as developments unfold. Make sure you are subscribed to [Fisher Phillips' Insights](#) to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney, the author of this Insight, or any attorney in [our Portland, Maine, office](#).