



Maine Sets New Restrictions on Workplace Monitoring and Surveillance: What Employers Need to Know

Insights

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Maine employers will soon face new restrictions and disclosure requirements when they use computers, phones, or other electronic equipment to monitor their employees under a new law. Maine joins New York, Connecticut, and Delaware as one of the few states imposing statutory obligations on employers that electronically monitor employees. But, unlike the more limited notice-only statutes in other states, Maine's law reflects a broader privacy-focused approach that not only mandates disclosure but also limits certain monitoring practices outright. Here's what you need to know about Maine's new restrictions and how you can keep your business in compliance before the law takes effect this summer.

Overview of Maine's New Law

LD 61 – An Act to Regulate Employer Surveillance to Protect Workers – regulates “employer surveillance,” which it broadly defines as monitoring employees through computer, telephone, radio, or other electronic systems. There are certain exceptions, including the use of surveillance cameras for safety or security purposes and the use of GPS or vehicle safety systems installed on employer-owned vehicles operated by employees.

There is also an exception for surveillance conducted by an employer, patient, client, or unpaid caregiver in “personal care services” settings. “Personal care services” are defined broadly to include assistance with daily living activities, household tasks, medication reminders, and other tasks.

Banned Practices and Notice Requirements

Maine's LD 61 prohibits certain practices by employers. That includes:

- Engaging in surveillance in an employee's home, on the employee's personal property, or in the employee's personal vehicle, unless such surveillance is required or necessary for the employee's job duties.
- Requiring their staff to install data collecting software on their personal devices. The law allows employees to decline an employer's request to install such applications on their device.

The law also sets out several new disclosure requirements including that employers must:

- Inform employees before implementing any electronic monitoring
- Disclose to job applicants that the employer engages in employee monitoring
- Provide employees with an annual written notice confirming that the company conducts employee surveillance

Important Caveat: Unlike notice requirements under some other state surveillance laws, no workplace poster is required, and employers are not required to obtain employee acknowledgment of the notice.

Does This Law Apply to My Business?

LD 61 covers both private and public employers, including the state and its political subdivisions. “Employee” is defined broadly to include any individual who provides services or labor for an employer in exchange for wages or other remuneration, suggesting that the statute may also extend to certain contract workers.

The Maine Department of Labor is authorized to enforce LD 61 and to impose civil penalties for violations, ranging from a minimum of \$100 to a maximum of \$500 per violation. There is no private right of action.

LD 61 will become effective 90 days after the close of Maine’s current legislative session. Employers should expect LD 61 to be effective summer 2026, likely July 14.

How Does Maine Compare to Other States?

Where Maine’s LD 61 combines notice obligations with substantive limits on employer surveillance practices, the employer surveillance laws in New York, Connecticut, and Delaware primarily focus on notice requirements.

New York (N.Y. Civ. Rights Law § 52-c):

- The law governs surveillance of employee internet use and communications, including text messages, email, and phone calls.
- Employers must provide written notice to employees upon hire (though not to applicants) and obtain written or electronic acknowledgment.
- Employers must also post a conspicuous workplace notice regarding their monitoring and surveillance policies.
- The law is enforced by the state attorney general, who can assess civil penalties on a graduated scale, with a \$500 maximum for a first offense, \$1,000 for a second, and a maximum penalty of up to \$3,000 for all subsequent offenses.

- Applies to all private employers, regardless of entity type or size. The law does not extend to public employers.

Connecticut (Conn. Gen. Stat. Ann. § 31-48d):

- The law broadly defines “electronic monitoring” as all information “on an employer’s premises concerning employees’ activities or communications” by means other than direct observation.
- Employers must provide prior written notice to all employees, but no employee acknowledgement is required.
- Employers must post a workplace notice.
- Allows electronic employee monitoring without prior notice if the employer has reasonable grounds to believe the employee is violating the law, the employer’s legal rights, or creating a hostile workplace environment.
- The law is enforced by the state labor commissioner, who can assess civil penalties ranging from \$500 to \$3000.
- The law applies to both public and private employers.

Delaware (Del. Code Ann. tit. 19, § 705):

- The law governs employer monitoring of internet use, emails, and phone calls.
- Employers must provide notice upon hire. The law identifies two acceptable forms of notice, with different acknowledgment requirements:
 - a daily notice that appears when an employee accesses employer-provided systems or internet, with no acknowledgment required; or
 - a one-time written or electronic notice with employee acknowledgment.
- No workplace notice posting required.
- Claims for violations can be filed with any court of competent jurisdiction, with civil penalties of \$100 per violation available.
- Applies to both public and private employers.

Compliance Considerations for Maine Employers

Employers operating in Maine or across multiple states should consider:

- 1. Bring-Your-Own-Device Policies.** Consider how LD 61 may impact the use of such policies, and how to work with employees that decline to install monitoring software on their personal devices.
- 2. Policy updates.** Review employee handbooks, acceptable use policies, and privacy policies to ensure they describe electronic monitoring practices accurately.

3. Notice protocols. Implement notice policies and procedures for current employees and for job applicants.

4. Training and documentation. Train HR and IT teams on new obligations and maintain documentation of employee notices and acknowledgments.

Conclusion

We will continue to monitor developments in this area and provide updates as warranted, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information direct to your inbox. If you have questions, please contact your Fisher Phillips attorney, the author of this Insight, or any member of our [Privacy and Cyber Practice Group](#) for guidance and support.

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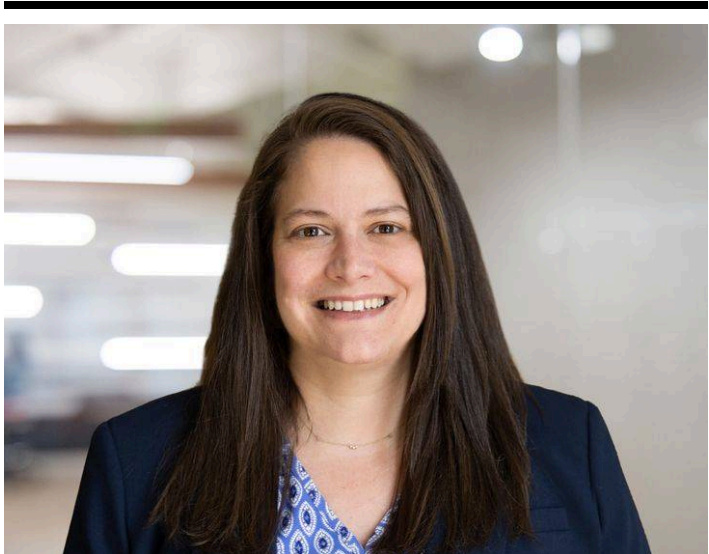


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