
SUBSTITUTE HOUSE BILL 2144

State of Washington

69th Legislature

2026 Regular Session

By House Labor & Workplace Standards (originally sponsored by Representatives Parshley, Scott, Hill, Thomas, Reed, Berry, Duerr, Cortes, Peterson, Kloba, Donaghy, Macri, Bernbaum, Obras, Taylor, Fey, Fosse, Hall, Berg, Ramel, Wylie, Goodman, Stearns, Reeves, Pollet, Nance, Callan, Street, Ryu, Doglio, Simmons, Santos, Zahn, Bronoske, Stonier, Gregerson, Ormsby, Farivar, and Bergquist)

READ FIRST TIME 01/30/26.

1 AN ACT Relating to requiring notices to employees when electronic
2 monitoring is used to assist employers conducting performance
3 evaluations; adding a new chapter to Title 49 RCW; prescribing
4 penalties; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The following definitions apply throughout
7 this chapter unless the context clearly requires otherwise:

8 (1) "Artificial intelligence" means an engineered or machine-
9 based system that can, for a given set of objectives, generate
10 outputs such as predictions, recommendations, or decisions
11 influencing real or virtual environments. Artificial intelligence
12 systems can be designed to operate with varying levels of autonomy.

13 (2) "Department" means the department of labor and industries.

14 (3) "Director" means the director of the department of labor and
15 industries or the director's designee.

16 (4) "Electronic monitoring" means the collection of information
17 concerning an employee's activities or communications by any means
18 other than direct, in-person observation, including, for example,
19 through the use of artificial intelligence, a digital device,
20 computer, telephone, wire, radio, camera, or electromagnetic,
21 photoelectronic, or photo-optical system.

1 (5) "Employee" means an individual employed by the employer
2 whether by way of manual labor or otherwise.

3 (6) "Employer" means any person, firm, corporation, partnership,
4 business trust, legal representative, or other business entity that
5 engages in any business, industry, profession, or activity in this
6 state and employs one or more employees, and includes the state, any
7 state institution, state agency, political subdivisions of the state,
8 and any municipal corporation or quasi-municipal corporation.
9 "Employer" does not include any general authority Washington law
10 enforcement agency as defined in RCW 10.93.020 or any city, county,
11 town, or state fire department responsible for fire suppression.

12 (7) "Meaningful human review" means a good-faith review by a
13 supervisor, manager, or other authorized personnel who considers
14 relevant electronic monitoring outputs, and as appropriate, other
15 available information about the employee's performance, and has
16 discretion to rely on, supplement, or depart from those outputs when
17 conducting the performance evaluation.

18 (8) "Performance evaluation" means an assessment, conducted by or
19 on behalf of the employer, of an employee's execution of any aspect
20 of the employee's job. "Performance evaluation" may include, for
21 example, the assessment of an employee's competence, productivity,
22 efficiency, achievements, strengths, or areas in need of improvement.

23 NEW SECTION. **Sec. 2.** (1) Except as provided in subsections (3)
24 and (4) of this section, if an employer intends to use electronic
25 monitoring to assist the employer in conducting a performance
26 evaluation of an employee, the employer must notify the employee, and
27 the employee's exclusive bargaining representative if the employee is
28 represented, in writing at least 30 days prior to implementing the
29 use of electronic monitoring.

30 (2) If, as of the effective date of this section, an employer is
31 already using electronic monitoring to assist in a performance
32 evaluation of an employee, the employer may continue to use
33 electronic monitoring but must provide written notice to the
34 employee, and the employee's exclusive bargaining representative if
35 the employee is represented, within 30 days of the effective date of
36 this section.

37 (3) Beginning on the effective date of this section, when an
38 employer hires an individual for employment and the employer uses or
39 intends to use electronic monitoring to assist in performance

1 evaluations, the employer must, at the time the job offer is made,
2 provide written notice to the individual stating that the employer
3 uses or intends to use electronic monitoring to assist in performance
4 evaluations.

5 (4) This section does not prohibit an employer from implementing
6 electronic monitoring of an employee prior to providing written
7 notice to the employee, if:

8 (a) The implementation of the use of technology is necessary to
9 prevent imminent harm to an employee or any person; or to prevent
10 imminent theft, property damage, or other economic harm to the
11 employer; or to respond to an emergency event involving the employer
12 or a state of emergency declared by a government body; and

13 (b) The employer notifies the employee in any manner as soon as
14 practicable and subsequently follows up within 30 days of
15 implementation, with a written notice that complies with the
16 requirements in subsection (5) of this section.

17 (5) The notice required under this section must include:

18 (a) A statement that the employer uses technology to
19 electronically monitor its employees. If the employer is using
20 computer monitoring software, key-stroke tracking technology, cameras
21 or other video or photographic technology, audio recording or
22 listening devices, artificial intelligence systems, or global
23 positioning system or other positioning technology, for the primary
24 purpose of monitoring the employee's job performance, the employer
25 must include in the notice a general list of the type of technology
26 being used. The employer is not required to include in the notice a
27 descriptive list of specific equipment, devices, or software being
28 used; and

29 (b) A statement saying whether the employer has a verification
30 process that includes meaningful human review to confirm information
31 and data gathered by the electronic monitoring.

32 (6) The employer should take into account the employer's
33 workforce and where feasible provide notices in the languages most
34 commonly spoken by the employer's employees.

35 NEW SECTION. **Sec. 3.** (1) If an employee files a complaint with
36 the department alleging a violation of the requirements of this
37 section, the department may investigate the complaint. The department
38 may issue either a citation and notice of assessment or a closure
39 letter.

1 (2) The department may not investigate any complaint alleging a
2 violation of this section that occurred more than three years before
3 the date the employee filed the complaint.

4 (3) If the department finds that an employee's allegation cannot
5 be substantiated, the department shall issue a closure letter to the
6 employee and the employer detailing the department's finding.

7 (4)(a) If the department finds that the employer violated the
8 requirements of this section, the department shall issue a citation
9 and notice of assessment, unless the complaint is otherwise resolved.

10 (b) The department's citation and notice of assessment must order
11 the employer to comply with the requirements of section 2 of this act
12 within 30 days of issuing the citation and notice of assessment. If
13 the employer complies with the order within 30 days, the department
14 may not impose any civil penalties. If the employer fails to comply
15 with the order within 30 days, the department may determine that the
16 violation was a willful violation. If the department determines that
17 the violation of this section was a willful violation, the department
18 shall order the employer to pay the department a civil penalty of no
19 less than \$100 and no more than \$5,000, unless the complaint is
20 otherwise resolved. For repeat willful violations, the department
21 shall order the employer to pay the department a civil penalty of no
22 less than \$5,000 for each repeated willful violation. The department
23 may, at any time, waive or reduce a civil penalty assessed under this
24 section.

25 (c) The department may collect unpaid citations pursuant to RCW
26 49.48.086.

27 (d) The department shall deposit civil penalties paid under this
28 section in the supplemental pension fund established under RCW
29 51.44.033.

30 (e) For the purposes of this subsection (4), "willful" means a
31 knowing and intentional action that is neither accidental nor the
32 result of a bona fide dispute. "Repeat willful violator" means an
33 employer who has been the subject of a final and binding citation for
34 a willful violation of this section within three years of the date of
35 issuance of the most recent citation for a willful violation.

36 (5) The department may issue subpoenas to compel the attendance
37 of witnesses or parties and the production of documents, administer
38 oaths and examine witnesses under oath, take depositions, and seek
39 affidavits or other verifications. The department may request an
40 employer to perform a self-audit of any records, which must be

1 provided within a reasonable time as specified in the self-audit
2 request. The records the employer examines for the self-audit must be
3 made available to the department upon request.

4 (6) (a) An employer or employee aggrieved by a citation,
5 assessment, or determination issued by the department under this
6 section may appeal the citation, assessment, or determination to the
7 director by filing a notice of appeal with the director within 30
8 days of the department's issuance of the citation, assessment, or
9 determination. A citation, assessment, or determination not appealed
10 within 30 days is final and binding and not subject to further
11 appeal.

12 (b) A notice of appeal filed with the director under this section
13 stays the effectiveness of the citation, assessment, or determination
14 pending final review of the appeal by the director as provided for in
15 chapter 34.05 RCW.

16 (c) Upon receipt of a notice of appeal, the director shall assign
17 the hearing to an administrative law judge of the office of
18 administrative hearings to conduct the hearing and issue an initial
19 order. The hearing and review procedures must be conducted in
20 accordance with chapter 34.05 RCW, and the standard of review shall
21 be de novo. A party who seeks to challenge an initial order must file
22 a petition for administrative review with the director within 30 days
23 after service of the initial order. The director shall conduct an
24 administrative review in accordance with chapter 34.05 RCW.

25 (d) The director shall issue all final orders after appeal of the
26 initial order. The final order of the director is subject to judicial
27 review in accordance with chapter 34.05 RCW.

28 (e) Orders that are not appealed within the time period specified
29 in this section and chapter 34.05 RCW are final and binding and not
30 subject to further appeal.

31 (7) An employer who fails to allow adequate inspection of records
32 in an investigation by the department under this section within a
33 reasonable time period may not use such records in any appeal under
34 this section to challenge the correctness of any determination by the
35 department of penalties assessed.

36 NEW SECTION. **Sec. 4.** (1) An employer may not retaliate,
37 discharge, or otherwise take adverse action against an employee
38 because the employee has filed a complaint, or instituted or caused
39 to be instituted any proceeding under this chapter, or has testified

1 or is about to testify in any such proceeding, or because of the
2 exercise by the employee of any right afforded by this chapter.

3 (2) (a) An employee aggrieved by an employer violating subsection
4 (1) of this section, may file a complaint with the department within
5 180 days of the alleged retaliation.

6 (b) The department shall investigate and issue either a citation
7 and notice of assessment or a determination of compliance within 90
8 days after the date the department receives the complaint, unless the
9 complaint is otherwise resolved.

10 (3) If the department's investigation finds that the employer
11 retaliated against the employee, and the complaint is not otherwise
12 resolved, the department may notify the employer that the department
13 intends to issue a citation and notice of assessment, and may provide
14 up to 30 days after the date of the notification for the employer to
15 take corrective action to remedy the retaliatory action. If the
16 complaint is not otherwise resolved, the department shall issue a
17 citation and notice of assessment and may impose civil penalties and
18 other appropriate relief.

19 NEW SECTION. **Sec. 5.** Nothing in this chapter supersedes or
20 diminishes the requirements, rights, and responsibilities under
21 chapter 9.73 RCW.

22 NEW SECTION. **Sec. 6.** An employer must maintain and keep records
23 of the notices given to its employees and must provide records to the
24 department upon request. The employer shall keep and maintain records
25 for at least three years.

26 NEW SECTION. **Sec. 7.** (1) In addition to the administrative
27 remedy provided under section 3 of this act, an employee may bring a
28 civil action against an employer for a violation of this section. A
29 prevailing employee is entitled to statutory damages of no less than
30 \$100 and no more than \$5,000, plus reasonable attorneys' fees and
31 costs. In determining the amount of statutory damages, the court
32 shall consider the following: Whether the violation was committed
33 willfully or the violation is a repeat violation; the size of the
34 employer; the amount necessary to deter future noncompliance; the
35 purposes of this section; and any other factor deemed appropriate by
36 the court. The court may also order actual damages, reinstatement,

1 injunctive relief, and other appropriate remedies for an employee
2 injured by a violation of this section.

3 (2) The employee must bring a civil action within three years of
4 the date of the alleged violation of this section regardless of
5 whether the employee pursued an administrative complaint.

6 NEW SECTION. **Sec. 8.** The department may adopt rules to
7 implement this section.

8 NEW SECTION. **Sec. 9.** This act takes effect July 1, 2028.

9 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act
10 constitute a new chapter in Title 49 RCW.

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