

Introduced by Senator Bowen

January 30, 2001

An act to add Section 1198.6 to the Labor Code, relating to employee records.

LEGISLATIVE COUNSEL'S DIGEST

SB 147, as introduced, Bowen. Employee computer records.

(1) Existing law does not prohibit an employer from monitoring the electronic mail or other computer records generated by an employee.

This bill would prohibit an employer from secretly monitoring the electronic mail or other computer records generated by an employee. The bill would provide that an employer who intends to inspect, review, or retain any electronic mail or any other computer records generated by an employee shall prepare and distribute to all employees the employer's workplace privacy and electronic monitoring policies and practices. The bill would provide that, upon distribution, the employer shall require every affected employee to sign or electronically verify that he or she read, understands, and acknowledges, receipt of the policies and practices. The bill would apply to specified public entities.

Because a violation of the bill would be a misdemeanor under existing law, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1198.6 is added to the Labor Code, to
2 read:

3 1198.6. (a) (1) An employer may not secretly monitor the
4 electronic mail or other computer records generated by an
5 employee.

6 (2) For purposes of this subdivision, “secretly monitor” means
7 to inspect, review, or retain electronic mail or other computer
8 records in a manner that does not comply with the policies and
9 practices that are disclosed to the employee pursuant to this
10 section.

11 (b) An employer who intends to inspect, review, or retain any
12 electronic mail or any other computer records generated by an
13 employee shall prepare and distribute to all employees, by hard
14 copy or electronic notice, upon the commencement of
15 employment for new employees, or by March 1, 2002, for existing
16 employees, the employer’s workplace privacy and electronic
17 monitoring policies and practices. Upon distributing these policies
18 and practices, the employer shall require every affected employee
19 to sign or electronically verify that he or she read, understands, and
20 acknowledges receipt of the policies and practices. An employer
21 shall be deemed in compliance with the notice requirement of this
22 subdivision as to any employee if the employer includes the notice
23 in the employee handbook and receives written or electronic
24 verification that the employee received, read, and understands the
25 notice, or electronically posts the notice on the employee’s
26 computer screen and receives electronic verification that the
27 employee received, read, and understands the notice. If an affected
28 employee to whom the policies and practices have been provided
29 pursuant to this subdivision declines to sign or electronically
30 verify that he or she read, understands, and acknowledges receipt
31 of the policies and practices, the employer may comply with the
32 requirements of this subdivision by having the person who
33 provided the policies and practices to the affected employee sign
34 and retain a statement to that effect and provide a copy of that
35 statement to the affected employee.



1 (c) For purposes of this section, “employee” includes, but is
2 not limited to, any individual employed by the state or any
3 organizational subdivision thereof, any county, city, or city and
4 county, whether organized under the general law or a charter, any
5 school district, community college district, the University of
6 California, or any political subdivision or public corporation of the
7 state.

8 SEC. 2. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.
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