SENATE
STATE OF MINNESOTA
NINETY-FOURTH SESSION

S.F. No. 4686

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03/23/2026	6904	Introduction and first reading Referred to Labor
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A bill for an act

relating to employment; regulating the use of electronic monitoring tools in employment settings; proposing coding for new law in Minnesota Statutes, chapter 181.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[181.9931] DEFINITIONS.**

(a) For the purposes of sections 181.9931 to 181.9938, the following terms have the meanings given.

(b) "Artificial intelligence" means an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments.

(c) "Authorized representative" means any person or organization appointed by the worker to serve as an agent of the worker. Authorized representative does not include a worker's employer.

(d) "Automated decision system" means any computational process derived from machine learning, statistical modeling, data analytics, or artificial intelligence that issues simplified output, including a score, classification, or recommendation, that is used to assist or replace human discretionary decision-making and materially impacts natural persons. An automated decision system does not include a spam email filter, a firewall, antivirus software, identity and access management tools, a calculator, a database, a dataset, or another compilation of data.

(e) "Automated decision system output" means any information, data, assumptions, predictions, scoring, recommendations, decisions, or conclusions generated by an automated decision system.

(f) "Electronic monitoring tool" means any system, application, or instrument that facilitates the collection of data concerning worker activities, communications, actions, biometrics, or behaviors by means other than direct observation by a person, including but not limited to video or audio surveillance, continuous incremental time-tracking tools, geolocation, electromagnetic tracking, or photoelectronic tracking, or that utilizes a photo-optical system or similar means.

(g) "Employer" means any person who directly or indirectly, or through an agent, vendor, or any other person, employs or exercises control over the wages, benefits, other compensation, hours, working conditions, access to work or job opportunities, or other terms or conditions of employment, of any worker. Employer includes all units of state and local government but does not include the federal government. Employer includes a labor contractor or vendor of a person defined as an employer under this paragraph.

(h) "Employment-related decision" means any decision by an employer that impacts wages, wage setting, benefits, compensation, work hours, work schedule, performance evaluation, hiring, recruitment, discipline, promotion, termination, job tasks, skill requirements, work responsibilities, assignment of work, access to work and training opportunities, productivity requirements, workplace health and safety, and any other terms or conditions of employment. For persons classified as independent contractors or for candidates for employment, an employment-related decision means the equivalent of these decisions based on the person's contract with or relationship to the employer.

(i) "Essential job functions" means the fundamental duties of a position, as revealed by objective evidence such as the amount of time workers spend performing each function, the consequences of not requiring individuals to perform the function, the terms of any applicable collective bargaining agreement, workers' past and present work experiences and performance in the position, and the employer's reasonable, nondiscriminatory judgment of which functions are essential. Past and current written job descriptions and the employer's reasonable, nondiscriminatory judgment of which functions are essential is evidence of which functions are essential for achieving the purpose of the job, but must not be the sole basis for this determination absent the objective evidence described in this paragraph.

(j) "Vendor" means a third party, subcontractor, or entity engaged by an employer or an employer's labor contractors to provide software, technology, or a related service that is used to collect, store, analyze, or interpret worker data or worker information.

(k) "Worker" means any natural person who is a job applicant to, an employee of, or an independent contractor providing service to or through an employer.

(l) "Worker data" means any information that identifies, relates to, describes, or is reasonably capable of being associated or directly or indirectly linked with a worker, regardless of how the information is collected, inferred, or obtained. Worker data includes but is not limited to:

(1) personal identity information, including the worker's name, contact information, government-issued identification numbers, financial information, criminal record, or employment history;

(2) biometric information, including data generated by automatic measurements of a worker's biological characteristics, such as a fingerprint, a faceprint, a voiceprint, eye retinas or irises, gait, or other unique biological patterns or characteristics that can be used, individually or in combination with other data, to identify or collect information about a worker;

(3) health, medical, lifestyle, and wellness information, including the worker's medical history, physical or mental condition, diet or physical activity patterns, heart rate, medical treatment or diagnosis by a health care professional, health insurance policy number, subscriber identification number, or other unique identifier used to identify the worker; and

(4) any data related to workplace activities, including the following:

(i) human resources information, including the contents of a worker's personnel file or performance evaluations;

(ii) work process information, such as data relating to an individual worker's performance or productivity, including but not limited to the quality and quantities of tasks performed, quality and quantities of items or materials handled or produced, rates or speeds of tasks performed, measurements or metrics of worker performance in relation to a quota, and time categorized as performing tasks or not performing tasks;

(iii) data that captures workplace communications and interactions, including emails, texts, internal message boards, screenshots, and customer interaction and ratings;

(iv) device usage and data, including but not limited to keystroke recording; website, software, and application utilization; calls placed; or geolocation information;

(v) audio, photo, or video data or other information collected from sensors, including movement tracking; thermal sensors; voiceprints; or facial recognition, emotion, and gait recognition;

(vi) inputs to or outputs generated by an automated decision system that are linked to the worker;

(vii) data collected through electronic monitoring or continuous incremental time-tracking tools; and

(viii) data collected or generated on workers to mitigate the spread of infectious diseases, including COVID-19, or to comply with public health measures.

Sec. 2. **[181.9932] PRE-USE NOTICE.**

Subdivision 1. **Pre-use notice; provision.** (a) An employer must provide a written notice that an electronic monitoring tool is in use at the workplace to a worker who will be directly or indirectly affected by the electronic monitoring tool, or the worker's authorized representative, and to any union representing workers who could be directly or indirectly affected by the electronic monitoring tool.

(b) The notice in paragraph (a) must be provided:

(1) if the electronic monitoring tool is introduced after the effective date of this section, at least 30 days before the introduction of the electronic monitoring tool;

(2) if the employer is using an existing electronic monitoring tool as of the effective date of this section, no later than September 1, 2026;

(3) prominently to a job applicant or new worker, before the employer collects the applicant's or worker's personal information that the employer plans to process using the electronic monitoring tool;

(4) at least 30 days before implementing any significant change to the electronic monitoring tool or how the employer is using the electronic monitoring tool; and

(5) to a union representing workers who will be subject to the electronic monitoring tool, on a timeline that provides a meaningful opportunity to bargain over the use, scope, and impact of the electronic monitoring tool prior to deployment or modification of the tool.

(c) Every time an employer provides a notice under paragraph (a), a copy of that notice must be submitted to the commissioner of labor and industry within ten days of the date the notice was provided to the worker. Copies of notices under paragraph (a) must also be made available to authorized representatives upon request.

(d) Notices under paragraph (a) must be:

(1) written in plain language as a separate and standalone communication;

(2) in the language in which routine communications and other information are provided to workers; and

(3) provided by a simple and easy-to-use method, including an email, hyperlink, or other written format.

(e) A job applicant or worker must receive the notice required under this section and respond with affirmative written consent before the worker is subject to an electronic monitoring tool.

(f) If reasonable alternatives to the use of the electronic monitoring tool exist, the worker must be allowed to opt out of being subject to the electronic monitoring tool.

Subd. 2. **Pre-use notice; contents.** The notice required under subdivision 1, paragraph (a), must contain the following information:

(1) a detailed description of the worker data to be collected by the electronic monitoring tool;

(2) the specific purpose of the electronic monitoring tool, how this form of monitoring is necessary to meet that purpose, and an explanation of why this form is the least invasive means of accomplishing this purpose;

(3) a description of the specific activities, locations, communications, and job titles that will be electronically monitored and the technologies that will be used;

(4) the frequency of electronic monitoring and worker data collection;

(5) a description of where, how, and for how long worker data will be stored;

(6) the names of any vendors conducting electronic monitoring on the employer's behalf;

(7) who is authorized to access the worker data gathered and under what condition access is authorized, including the names of vendors and labor contractors;

(8) whether and how any worker data collected by the electronic monitoring tool will be used as an input into an automated decision system;

(9) whether and how any worker data collected by electronic monitoring will, either alone or in conjunction with an automated decision system, be used to make an employment-related decision by the employer and, if so, the nature of that decision;

(10) whether and how any worker data collected by the electronic monitoring tool will be used to assess workers' productivity performance or to set productivity standards;

(11) an up-to-date list of all electronic monitoring tools the employer is currently using; and

(12) a description of the worker's rights under sections 181.9932 to 181.9938.

Sec. 3. **[181.9933] RECORDS.**

Subdivision 1. **Data records.** (a) Employers must maintain records of data collected through an electronic monitoring tool for 36 months after the data's collection to ensure compliance with requests for data from workers or the commissioner of labor and industry.

(b) Employers must destroy any worker data collected via an electronic monitoring tool no later than 37 months after collection unless the worker has provided written and informed consent to the retention of the worker's data by the employer.

(c) Employers must protect the confidentiality, integrity, and accessibility of worker data using data security practices consistent with data and cyber privacy laws and appropriate to the volume and nature of the worker data collected.

Subd. 2. **Record requests.** (a) A worker has the right to request a copy of any of the worker's data collected through an electronic monitoring tool and any corroborating evidence used by a human reviewer.

(b) An employer must provide copies of the data requested within seven days of receiving a worker's request.

Subd. 3. **Record corrections.** (a) A worker has the right to request corrections to worker data collected through an electronic monitoring tool and any corroborating evidence used by a human reviewer.

(b) An employer that receives a request to correct any of the information in paragraph (a) must investigate and determine whether the disputed data is inaccurate.

(c) If an employer determines that the disputed data is inaccurate, the employer must:

(1) promptly correct the disputed data and inform the worker of the employer's decision and action;

(2) review and adjust any employment-related decisions that were partially or solely based on the inaccurate data, and inform the worker of the adjustment; and

(3) inform any third parties with which the employer shared the inaccurate data, or from which the employer received the inaccurate data, of the error and direct the third parties to correct the error.

(d) If an employer, upon investigation, determines that the disputed data is accurate, the employer must inform the worker of:

(1) the decision not to amend the disputed data;

(2) the steps taken to verify the accuracy of the data; and

(3) the evidence supporting the decision not to amend the disputed data.

Sec. 4. **[181.9934] EMPLOYER REQUIREMENTS.**

Subdivision 1. **Use of electronic monitoring tools.** (a) An employer may only use an electronic monitoring tool to collect worker data to:

(1) accomplish, or facilitate the accomplishment of, an essential job function;

(2) ensure the quality of goods and services;

(3) conduct periodic assessments of worker performance;

(4) ensure or facilitate compliance with laws and regulations;

(5) protect the health, safety, or security of workers or the security of the employer's facilities or computer networks; and

(6) administer wages and benefits.

(b) If the electronic monitoring tool is being used for an allowed purpose:

(1) the employer must specify the intended purpose of the electronic monitoring tool;

(2) the employer must only use the electronic monitoring tool for the purpose specified;

(3) the type and activated capabilities of the electronic monitoring tool must be narrowly tailored to accomplish that purpose; and

(4) the electronic monitoring tool must operate in a manner that is limited to the smallest number of workers, collects the least amount of data as is feasible, and collects data no more frequently than necessary for achieving that purpose.

Subd. 2. **Prohibitions.** (a) An employer is prohibited from using an electronic monitoring tool to:

(1) prevent compliance with or cause a violation of any federal, state, or local law or regulation;

(2) obtain or infer a worker's immigration status; veteran status; ancestral history; religious or political beliefs; health or reproductive status, history, or plan; emotional or psychological state; neural data; sexual or gender orientation; disability; criminal record; or credit history;

(3) make predictions or inferences about a worker's behavior, beliefs, intentions, personality, emotional state, health, or other characteristics or behavior that are unrelated to the worker's essential job functions;

(4) identify, predict, or take adverse action against a worker for exercising the worker's legal rights;

(5) draw on facial, gait, or emotion recognition technologies;

(6) monitor workers who are off duty and not performing work-related tasks;

(7) conduct audio or visual monitoring, including data collection on the frequency of use, of bathrooms or other similarly private areas, including locker rooms, changing areas, break rooms, smoking areas, worker cafeterias, lounges, areas designated for expressing breast milk, or areas designated for prayer or other religious activity;

(8) monitor a workplace in a worker's residence, a worker's personal vehicle, or property owned or leased by a worker;

(9) threaten the health, welfare, safety, or legal rights of workers or the general public; or

(10) collect data for a purpose that was not disclosed in the notice required by section 181.9932.

(b) An employer must not require workers to:

(1) physically implant devices that collect or transmit data, including devices that are installed subcutaneously or incorporated into items of clothing or personal accessories;

(2) install applications that collect or transmit worker data on a worker's personal device;

(3) wear or embed devices that collect or transmit worker data; or

(4) carry or use any device with location tracking applications or services enabled unless the location tracking is:

(i) conducted during work hours only;

(ii) strictly necessary to accomplish essential job functions; and

(iii) narrowly limited to only the activities and times necessary to accomplish essential job functions.

(c) An employer must not take any adverse action against a worker based on data from a continuous time-tracking tool, except in cases of egregious misconduct.

Subd. 3. **Employment-related decisions.** (a) An employer must not rely solely on an electronic monitoring tool when making an employment-related decision.

(b) When an employer relies in part on an electronic monitoring tool in making an employment-related decision, the employer must: (1) ensure the accuracy of the worker data; and (2) use a designated internal reviewer to conduct an investigation and compile corroborating information for the decision. This information may include but is not limited to supervisory or managerial evaluations, personnel files, employee work products, or peer reviews. The designated internal reviewer must:

(i) be granted sufficient authority, discretion, resources, and time to corroborate the worker data collected by the electronic monitoring tool;

(ii) have sufficient expertise in the operation of similar systems, and a sufficient understanding of the electronic monitoring tool in question to interpret the tool's outputs as well as results of relevant impact assessments;

(iii) have the education, training, or experience sufficient to allow the reviewer to make a well-informed decision, including education about the limitations and biases of electronic monitoring tools and training on workers' rights under sections 181.9932 to 181.9938; and

(iv) be protected from retaliation for exercising the reviewer's responsibilities.

(c) When an employer cannot corroborate the worker data collected by the electronic monitoring tool, or the human reviewer has concluded that the worker data collected by the electronic monitoring tool is inaccurate, incomplete, or misleading, the employer must not rely on the worker data to make the employment-related decision.

Sec. 5. **[181.9935] POST-USE NOTICE AND RIGHT TO ACCESS.**

Subdivision 1. **Notice.** (a) An employer that has used worker data collected by an electronic monitoring tool to make an employment-related decision must provide the affected worker with a written notice:

(1) at the time the employer informs the worker of the decision or no later than 15 business days from the date of the decision, whichever is earlier; or

(2) if the decision will result in the discipline or termination of the worker, at least 30 days before the discipline or termination will take effect.

(b) The notice in paragraph (a) must be:

(1) written in plain language as a separate and standalone communication;

(2) in the language in which routine communications and other information are provided to workers; and

(3) provided by a simple and easy-to-use method, including an email, hyperlink, or other written format.

(c) A notice under paragraph (a) must contain the following information:

(1) an acknowledgment that the employer used worker data collected by an electronic monitoring tool to make one or more employment-related decisions with respect to the worker;

(2) a description of the worker's rights under sections 181.9932 to 181.9938;

(3) a form or a link to an electronic form for the worker to file an appeal or request detailed information about the worker data and the electronic monitoring tool used in the decision; and

(4) that the employer is prohibited from retaliating against the worker for exercising the worker's rights under this section.

Subd. 2. **Right to access.** (a) When responding to a worker's access request, an employer must provide the following information to the worker:

(1) a plain-language explanation of the specific decision for which the employer used the worker data collected by an electronic monitoring tool;

(2) the specific electronic monitoring tool used to collect the worker data, how the tool gathers and analyzes the data, and the locations where and increments of time when the data is gathered;

(3) a machine-readable copy of the worker data gathered through the electronic monitoring tool;

(4) any additional information used in the decision-making process gathered through sources other than electronic monitoring, including any performance standards used, inferences about the worker made by automated decision systems, and aggregate benchmark data from other workers; and

(5) the names of any vendors conducting electronic monitoring on the employer's behalf.

(b) An employer must respond to an access request no later than 14 calendar days from the date the employer received the request.

(c) A service provider, contractor, or vendor must provide full assistance to the employer in responding to a worker request for access, including any of that worker's data in the service provider's, contractor's, or vendor's possession, and any relevant information about the electronic monitoring tool.

Sec. 6. **[181.9936] RIGHT TO APPEAL.**

(a) An employer that uses worker data collected through an electronic monitoring tool to make an employment-related decision must provide the affected worker with a form, or a link to an electronic form, to appeal the decision.

(b) The appeal form provided to an affected worker must include:

(1) the option to request access to the worker data used to make the decision;

(2) the option to request access to any corroborating or supporting evidence provided by a human reviewer to verify the worker data collected through an electronic monitoring tool;

(3) space for the worker's reason for an appeal and any evidence the worker has to support the appeal; and

(4) information on how the worker can designate an authorized representative who can also access the data.

(c) A worker must appeal the employment-related decision within 30 days of the date the worker was notified under section 181.9935 of the use of the automated decision system.

(d) An employer must respond to a worker submitting an appeal form within five business days of receiving the form. To respond to an appeal, the employer must designate a human reviewer who:

(1) will objectively evaluate all evidence;

(2) has sufficient authority, discretion, and resources to evaluate the decision, including education about the limitations and biases of electronic monitoring tools and training on workers' rights under sections 181.9932 to 181.9938;

(3) has the authority to overturn the employer's decision; and

(4) was not involved in making the decision that the worker is appealing.

(e) After reviewing the evidence, the human reviewer must produce a clearly written document describing the result of the appeal and the reasons for that result. This document must be provided to both the employer and the worker.

(f) If the human reviewer determines that the employment-related decision should be overturned, the employer must rectify the decision within five business days of receiving the decision.

Sec. 7. **[181.9937] DATA SALE AND SECURITY.**

(a) An employer must not transfer, sell, or license worker data, including deidentified or aggregated data, to a vendor, subcontractor, or other third party, including another employer, unless:

(1) the vendor is under contract to analyze or interpret the worker data and the contract prohibits the sale or licensing of the worker data;

(2) the vendor implements reasonable security procedures to protect the worker data from unauthorized or illegal access, destruction, use, modification, or disclosure; and

(3) the vendor agrees to be jointly and severally liable for worker data breaches.

(b) An employer must not share worker data with the state or a local government unless required to do so by law.

(c) An employer or vendor must keep worker data secure by preventing unauthorized access and implementing a security system with up-to-date safeguards in place.

(d) Worker data collected by an employer or a vendor must be accessible only to authorized personnel.

(e) If a data breach occurs, the employer must give notice to workers of the specific categories of data that were impacted as soon as possible.

(f) A vendor must return to the worker and employer all worker data collected through electronic monitoring tools in a user-friendly format and delete any remaining copies of the worker data at the end of the vendor's contract with the employer.

Sec. 8. **[181.9938] ENFORCEMENT.**

Subdivision 1. **Retaliation.** An employer must not discharge, threaten to discharge, demote, suspend, or in any manner discriminate or retaliate against any worker for using or attempting to use the worker's rights under this section and sections 181.9932 to 181.9937, including but not limited to filing a complaint with the commissioner of labor and industry,

alleging a violation, cooperating in an investigation or prosecution of an alleged violation, taking any action to invoke or assist in enforcing these rights, or exercising or attempting to exercise any of these rights.

Subd. 2. **Enforcement.** (a) The commissioner of labor and industry must enforce this section and sections 181.9932 to 181.9937, including investigating alleged violations, ordering appropriate temporary relief to mitigate a violation or maintain the status quo pending the completion of a full investigation or hearing, issuing citations against employers, and filing civil actions.

(b) An employer who violates this section or sections 181.9932 to 181.9937 may be liable to the plaintiff in a civil action for any and all damages recoverable at law, including punitive damages, and injunctive and other equitable relief as determined by the court, together with costs and disbursements, including reasonable attorney fees.

(c) A civil action under this section may be brought in a district court of competent jurisdiction by:

(1) the commissioner of labor and industry;

(2) the attorney general under section 8.31; or

(3) a worker aggrieved by the violation, or the worker's exclusive representative.

Subd. 3. **Civil penalties.** (a) An employer who violates section 181.9932 or section 181.9935 is subject to a civil penalty of $1,000 per violation. Each day a worker is affected constitutes a separate violation.

(b) An employer who violates section 181.9933, 181.9934, 181.9936, or 181.9937 is subject to a civil penalty of $2,500 per violation. Each day a worker is affected constitutes a separate violation. Under section 181.9934, each use of an electronic monitoring tool constitutes a separate violation.

Subd. 4. **Joint and several liability.** Each employer and labor contractor or vendor engaged by an employer to provide services is jointly and severally liable for any violation of this section or sections 181.9932 to 181.9937.

Subd. 5. **Preemption.** This section does not preempt any city, county, or city and county ordinance that provides equal or greater protection to workers who are covered by this section and sections 181.9932 to 181.9937.

Subd. 6. **Severability.** The provisions of this section and sections 181.9931 to 181.9937 are severable. If any provision or its application is held invalid, that invalidity does not

affect other provisions or applications that can be given effect without the invalid provision or application.

Subd. 7. **Model notice.** The commissioner of labor and industry must create and publish on the department's website model language that employers may use for the notices required under sections 181.9932 and 181.9935.