

1 AN ACT in relation to privacy.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Electronic Privacy Act.

6 Section 5. Definitions. In this Act:

7 "Electronic monitoring" means the collection of
8 information concerning employee activities or communications
9 by any means other than direct observation, including but not
10 limited to the use of a computer, telephone, wire, radio,
11 camera, electromagnetic, photoelectronic, or photo-optical
12 system.

13 "Employee" means any person who performs services for an
14 employer in exchange for financial remuneration, including
15 part time, leased, or former employees.

16 "Employer" means any person, partnership, corporation, or
17 other entity engaged in commerce or any other person or
18 organization that obtains the services of individuals in
19 exchange for financial remuneration.

20 Section 10. Information that may be collected.

21 (a) An employer may use electronic monitoring to collect
22 any information so long as the information is collected at
23 the employer's premises and the information is confined to
24 the employee's work.

25 (b) Notwithstanding the provisions of subsection (a) of
26 this Section, electronic monitoring, including security
27 cameras, the sole purpose and principal effect of which is to
28 collect information permitted by this Act, is not prohibited
29 even if the electronic monitoring collects some information
30 about employees that is not confined to the employee's work.

1 Section 15. General notice.

2 (a) Each employer that engages in any type of electronic
3 monitoring shall provide prior written notice to all
4 employees who may be affected.

5 This notice shall provide all of the following:

6 (1) The information that is to be collected.

7 (2) The means by which this information is to be
8 collected.

9 (3) The times at which the electronic monitoring is
10 to occur.

11 (4) The location of the electronic monitoring
12 equipment.

13 (5) The use to be made of the information that is
14 collected.

15 (6) The identity of the employees who will be
16 monitored.

17 However, if an employer has reasonable grounds to believe
18 that employees are engaged in conduct that violates the legal
19 rights of the employer or the employer's employees and
20 involves significant harm to that party and that electronic
21 monitoring will produce evidence of this misconduct, then the
22 employer may conduct electronic monitoring without giving
23 notice.

24 (b) If an employer's electronic monitoring program
25 includes the employer's customers or members of the public,
26 then the employer shall provide notice to those affected.
27 This notice may take any form that is reasonably calculated
28 to reach the affected parties.

29 Section 20. Simultaneous notice. Employers that engage
30 in random or periodic electronic monitoring of employees'
31 communications, such as telephone service observation or
32 monitoring of electronic mail, shall inform the affected
33 employees of the specific events that are being monitored at

1 the time the electronic monitoring takes place. However,
2 employers who are engaged in a bona fide quality control
3 program need not provide simultaneous notice. A bona fide
4 quality control program is an employer program that meets all
5 of the following requirements:

6 (1) The information collected relates to the
7 performance of a specific defined task.

8 (2) The employer has a written standard for the
9 performance of this task.

10 (3) The purpose of the program is to compare the
11 performance of employees performing the task to the
12 standard.

13 (4) Information is collected on a reasonably equal
14 basis regarding the performance of all employees
15 performing the task.

16 (5) The affected employees are given feedback on
17 the employer's evaluation of their performance at a time
18 when they can reasonably be expected to remember the
19 events upon which their evaluation is based.

20 Section 25. Private areas. No electronic monitoring may
21 take place in bathrooms, locker rooms, shower facilities, or
22 other similar private areas.

23 Section 30. Disclosure. Information concerning
24 employees that is collected through electronic monitoring may
25 be disclosed only (i) with the prior written consent of the
26 employee, although that consent shall not be a condition of
27 employment, (ii) to officers, employees, or authorized agents
28 of the employer who have a legitimate need for the
29 information in performance of their duties, or (iii) to
30 appropriate law enforcement agencies.

31 Section 35. Non-retaliation. No employer may discharge,

1 discipline, or in any other manner discriminate against an
2 employee because the employee has asserted his or her rights
3 under this Act, assisted other employees in asserting their
4 rights under this Act, reported violations of this Act, or
5 participated in enforcement actions under this Act.

6 Section 40. Enforcement.

7 (a) The Attorney General has the authority to
8 investigate alleged violations of this Act. Any employer who
9 is found to have violated this Act is guilty of a business
10 offense. The penalty is a fine of not more than \$2,000.

11 (b) Any person whose rights under this Act have been
12 abridged may file a civil action. Any employer that violates
13 this Act shall be liable to the person aggrieved for special
14 and general damages, together with attorney's fees and costs.

15 (c) Any employer that commits or proposes to commit an
16 act in violation of this Act may be enjoined from violating
17 this Act by any court of competent jurisdiction.

18 Section 45. Waiver of rights. The rights provided by
19 this Act may not be waived by contract or otherwise, unless
20 the waiver is part of a written settlement to a pending
21 action or complaint.