

# New York to require private employers to notify employees of electronic monitoring

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**On November 8, 2021, New York Governor Kathy Hochul signed legislation amending the state civil rights law to add a new provision requiring employers who engage in electronic monitoring to notify workers of such.**

The amendment ([A.430/S.2628](#)), which takes effect 180 days after the governor's signature, applies to any private employer with a place of business in New York that "monitors or otherwise intercepts" any employee's telephone conversations, emails, or internet access or usage by "any electronic device or system."

Under the new provision, a private employer who engages in such monitoring of employees must give prior written notice upon hire to all employees who are subject to electronic monitoring. This notice must be in writing or in an electronic record, and must be acknowledged by the employee in writing or electronically.

Employers must also post the notice of electronic monitoring "in a conspicuous place which is readily available for viewing by its employees who are subject to electronic monitoring."

The contents of the notice must advise employees that:

"[A]ny and all telephone conversations or transmissions, electronic mail or transmissions, or internet access or usage by an employee by any electronic device or system, including but not limited to the use of a computer, telephone, wire, radio or electromagnetic, photoelectronic or photo-optical systems may be subject to monitoring at any and all times and by any lawful means."

The amendment additionally imposes fines on employers violating the new requirement: a maximum of \$500 for the first offense, \$1,000 for the second offense, and \$3,000 for the third and each subsequent offense.

In addition to providing and posting the notice as required, any private employer with a place of business in New York is advised to add an additional policy to their handbook in response to this new measure.

For more information on the impact of this amendment or any other New York laws, please contact one of the authors of this post or the Hogan Lovells lawyer with whom you work.

Authored by Kenneth Kirschner and Heather McAdams.

## Contacts



Kenneth Kirschner  
Partner  
New York



Heather McAdams  
Associate  
New York

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