

AMENDED IN ASSEMBLY MARCH 24, 1998

CALIFORNIA LEGISLATURE—1997-98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2303**

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**Introduced by Assembly Member Runner**

February 19, 1998

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An act to add Section 435 to the Labor Code, relating to employment surveillance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2303, as amended, Runner. Employment surveillance: notice.

Existing law prohibits an employer from demanding or requiring any applicant for employment or prospective employment or any employee to submit to or take a polygraph, lie detector, or similar test or examination as a condition of employment or continued employment.

This bill, in addition, would prohibit an employer from causing an audio or video recording to be made of an employee *in a restroom, locker room, or other room intended by an employer to permit an employee to change his or her clothes*, unless the employer first ~~provides the employee or prospective employee with written notice of the intent of the employer to make any such recording. The bill would require an employer to maintain a copy of the written notice provided to each employee and would require the written notice to contain the signature of the employee or prospective employee acknowledging his or her receipt of the notice and the date the notice was provided~~ *posts notice that the room*

may be subject to those recordings. The bill would prohibit a recording made in violation of its provisions from being used by an employer for any purpose. The bill would make its provisions applicable to a private or public employer, except the federal government.

Because a violation of the provisions of the bill would constitute a ~~misdemeanor~~ *an infraction*, the bill would impose a state-mandated local program.

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 435 is added to the Labor Code,  
2 to read:

3 435. (a) No employer may cause an audio or video  
4 recording to be made of an employee ~~unless the employer~~  
5 ~~first provides the employee or prospective employee~~  
6 ~~with written notice of the intent of the employer to make~~  
7 ~~any such recording. An employer shall maintain a copy of~~  
8 ~~the written notice provided to each employee. The~~  
9 ~~written notice shall contain the signature of the employee~~  
10 ~~or prospective employee acknowledging his or her~~  
11 ~~receipt of the notice and the date the notice was~~  
12 ~~provided.~~ *in a restroom, locker room, or other room*  
13 *intended by an employer to permit an employee to*  
14 *change his or her clothes, unless the employer first posts*  
15 *notice that the room may be subject to those recordings.*

16 (b) No recording made in violation of this section may  
17 be used by an employer for any purpose. This section  
18 applies to a private or public employer, except the federal  
19 government.

20 (c) *A violation of this section constitutes an infraction.*



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

11 Notwithstanding Section 17580 of the Government  
12 Code, unless otherwise specified, the provisions of this act  
13 shall become operative on the same date that the act  
14 takes effect pursuant to the California Constitution.

