

106TH CONGRESS
2^D SESSION

H. R. 4908

To amend title 18, United States Code, to provide for the disclosure of electronic monitoring of employee communications and computer usage in the workplace.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2000

Mr. CANADY of Florida (for himself and Mr. BARR of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide for the disclosure of electronic monitoring of employee communications and computer usage in the workplace.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Notice of Electronic
5 Monitoring Act”.

6 **SEC. 2. ELECTRONIC MONITORING OF EMPLOYEE COMMU-**
7 **NICATIONS AND COMPUTER USAGE IN THE**
8 **WORKPLACE.**

9 (a) ELECTRONIC MONITORING.—

1 (1) IN GENERAL.—Chapter 121 of title 18,
2 United States Code, is amended—

3 (A) by redesignating section 2711 as sec-
4 tion 2712; and

5 (B) by inserting after section 2710 the fol-
6 lowing new section 2711:

7 **“§ 2711. Electronic monitoring in the workplace**

8 “(a) IN GENERAL.—(1) Except as provided in sub-
9 section (c), an employer who intentionally, by any elec-
10 tronic means, reads, listens to, or otherwise monitors any
11 wire communication, oral communication, or electronic
12 communication of an employee of the employer, or other-
13 wise monitors the computer usage of an employee of the
14 employer, without first having provided the employee no-
15 tice meeting the requirements of subsection (b) shall be
16 liable to the employee for relief as provided in subsection
17 (d).

18 “(2) Not later than one year after first providing no-
19 tice of electronic monitoring under paragraph (1), and an-
20 nually thereafter, an employer shall provide notice meeting
21 the requirements of subsection (b) to all employees of the
22 employer who are subject to such electronic monitoring.

23 “(3) Before implementing a material change in an
24 electronic monitoring practice described in paragraph (1),
25 an employer shall provide notice meeting the requirements

1 of subsection (b) to all employees of the employer who are
2 subject to electronic monitoring covered by that paragraph
3 as a result of the change.

4 “(b) NOTICE.—A notice meeting the requirements of
5 this subsection is a clear and conspicuous notice, in a man-
6 ner reasonably calculated to provide actual notice,
7 describing—

8 “(1) the form of communication or computer
9 usage that will be monitored;

10 “(2) the means by which such monitoring will
11 be accomplished and the kinds of information that
12 will be obtained through such monitoring, including
13 whether communications or computer usage not re-
14 lated to the employer’s business are likely to be
15 monitored;

16 “(3) the frequency of such monitoring; and

17 “(4) how information obtained by such moni-
18 toring will be stored, used, or disclosed.

19 “(c) EXCEPTION.—An employer may conduct elec-
20 tronic monitoring described in subsection (a) without the
21 notice required by subsection (b) if the employer has rea-
22 sonable grounds to believe that—

23 “(1) a particular employee of the employer is
24 engaged in conduct that—

1 “(A) violates the legal rights of the em-
2 ployer or another person; and

3 “(B) involves significant harm to the em-
4 ployer or such other person; and

5 “(2) the electronic monitoring will produce evi-
6 dence of such conduct.

7 “(d) CIVIL ACTION.—(1) Any person aggrieved by
8 any act in violation of this section may bring an action
9 in a United States district court.

10 “(2) Subject to paragraph (3), the court in an action
11 under this subsection may award—

12 “(A) actual damages, but not less than liq-
13 uidated damages in the amount of \$5,000;

14 “(B) punitive damages;

15 “(C) reasonable attorneys’ fees and other litiga-
16 tion costs reasonably incurred; and

17 “(D) such other preliminary and equitable relief
18 as the court determines to be appropriate.

19 “(3)(A) The amount of monetary damages awarded
20 an employee under paragraph (2) may not exceed
21 \$20,000.

22 “(B) The aggregate amount of monetary damages
23 awarded against an employer under paragraph (2) for a
24 given violation of this section may not exceed \$500,000.

1 “(4) No action may be brought under this subsection
2 unless such action is begun within 2 years from the date
3 of the act complained of or the date of discovery of the
4 act complained of, whichever is later.”.

5 (2) CLERICAL AMENDMENT.—The table of sec-
6 tions at the beginning of that chapter is amended by
7 striking the item relating to section 2711 and insert-
8 ing the following new items:

“Sec. 2711. Electronic monitoring in the workplace.

“Sec. 2712. Definitions for chapter.”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 subsection (a) shall take effect 120 days after the date
11 of the enactment of this Act.

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