

 e-Alert

06.02.22

## NY Notice of Electronic Monitoring Requirement

### Background

In November 2021, New York's governor Kathy Hochul signed an amendment to [New York State's Civil Rights Law](#). The amendment mandates all employers to be transparent with their electronic monitoring practices and policies.

### Summary

Amendments to the [state's workplace monitoring laws](#) took effect May 7, 2022. For the purposes of this amendment, electronic monitoring is defined as when employers monitor any of the following activities on any device:

- Incoming and outgoing telephone calls
- Incoming and outgoing e-mails
- Internet webpage browsing history
- Wire or radio communications, or
- Communications using electromagnetic, photoelectronic, or photo-optical systems

Electronic monitoring does not apply to processes that:

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- Are designed to manage the type or volume of an e-mail, phone call, voicemail, or internet session
- Are performed as part of regular system maintenance

All employers with a place of business in New York must provide notice to and obtain an acknowledgment from employees upon hire regarding their electronic monitoring policy. Employers do not need to obtain acknowledgments from current employees; however, they must post a notice in a place that is readily available for all employees to view. The law is unclear about whether this applies to remote employees who do not live in New York.

Violations of the amendment will be subject to fines up to \$3,000 per offense. Responsibility for enforcement will come from New York State's Attorney General's office.

## Employer Next Steps

- Post a physical notice in a conspicuous location in the workplace and/or use electronic postings that are accessible for employees working remotely.
- For clients that receive workplace posters for the state of New York, through HRK, this notice requirement is an anticipated change, therefore you will receive an e-update, once available.
- Incorporate a policy and acknowledgment form into your new hire onboarding process.
- If you are a Full-Service or Virtual HR client and would like us to provide a notice template or need assistance updating your policy, please [email us](#).

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