

.....
(Original Signature of Member)

106TH CONGRESS
2^D SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

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

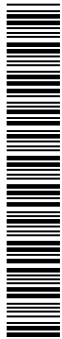
A BILL

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”.



1 **SEC. 2. ELECTRONIC MONITORING OF EMPLOYEE COMMU-**
 2 **NICATIONS AND COMPUTER USAGE IN THE**
 3 **WORKPLACE.**

4 (a) ELECTRONIC MONITORING.—

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

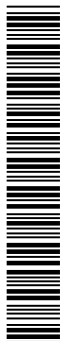
7 (A) by redesignating section 2711 as sec-
8 tion 2712; and

9 (B) by inserting after section 2710 the fol-
10 lowing new section 2711:

11 **“§ 2711. Electronic monitoring in the workplace**

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

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



1 “(3) Before implementing a material change in an
2 electronic monitoring practice described in paragraph (1),
3 an employer shall provide notice meeting the requirements
4 of subsection (b) to all employees of the employer who are
5 subject to electronic monitoring covered by that paragraph
6 as a result of the change.

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

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

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

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

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

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



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

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

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

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

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

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

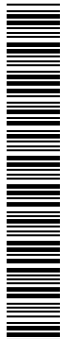
14 “(A) actual damages, but not less than liq-
15 uidated damages in the amount of \$5,000;

16 “(B) punitive damages;

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

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

21 “(3)(A) The amount of monetary damages awarded
22 an employee under paragraph (2) may not exceed
23 \$20,000.



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

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

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

“Sec. 2711. Electronic monitoring in the workplace.
“Sec. 2712. Definitions for chapter.”.

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

