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**Testimony of Dillon Murray,
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Neither For Nor Against
LD 61, "An Act to Regulate Employer Surveillance to Protect Workers"
To the Joint Standing Committee on Labor
Wednesday, February 5th, 2025**

Good afternoon Senator Tipping, Representative Roeder and members of the Joint Standing Committee on Labor. My name is Dillon Murray, Legislative Liaison for the Maine Department of Labor (Department). I am here today to speak on behalf of the Department Neither for Nor Against LD 61, "An Act to Regulate Employer Surveillance to Protect Workers," which addresses pay transparency and outlines new disclosure and recordkeeping responsibilities for employers in Maine.

LD 61 aims to establish clear guidelines for employer surveillance practices to safeguard employee privacy rights. The bill defines "employer surveillance" as the monitoring of an employee by an employer through electronic devices or systems, including computers, telephones, and photoelectronic systems. Notably, LD 61 excludes the use of surveillance cameras for security or safety purposes and the use of GPS tracking or other safety devices on employer-owned vehicles operated by employees.

Key provisions of the bill include:

- **Notification Requirement:** Employers must inform employees before initiating any form of employer surveillance. The Department would note that in "Senate Amendment to Committee Amendment A," which was adopted by the Senate as the result of a recall vote on a similar bill in the 131st Legislature, provided that "... [An employer] shall provide written notice at least once per calendar year to all current employees that the employer engages in employer surveillance." LD 949 went on to die upon adjournment, but the Department would suggest amending this section of the bill before you, to include this language.
- **Audiovisual Monitoring Restrictions:** Employers are prohibited from conducting audiovisual monitoring in an employee's residence, personal vehicle, or on the employee's property.

- **Personal Electronic Devices:** Employees have the right to decline employer requests to install data collection or transmission applications on their personal electronic devices.
- **Notice to Prospective Employees:** Employers engaging in surveillance must inform prospective employees during the interview process about such practices.
- **Private Right of Action:** Individuals aggrieved by violations of this section have the right to seek injunctive relief and recover civil penalties and attorney's fees. The Department would note that in the same Senate Amendment to LD 949 referenced above, the bill was amended, the private right of action stripped and replaced with a penalties section outlining enforcement authority to the Department. We would suggest this language change.

The bill mandates that employers provide transparency regarding surveillance practices, ensuring that employees are aware of monitoring activities. This requirement may necessitate updates to company policies and employee handbooks, as well as the implementation of procedures to obtain employee consent where applicable. Employers will need to balance their legitimate business interests, such as security and productivity, with the privacy rights of employees.

Employees are afforded greater protections under this bill, particularly concerning their privacy in personal spaces and the use of personal devices. The provisions empower employees to make informed decisions about their privacy and provide legal recourse in instances where their rights are violated.

The Department appreciates the valid concerns raised by the bill, as the concept of employer surveillance is not currently addressed in statute. The reasonable protections outlined in subsection 3 regarding audiovisual monitoring in an employee's residence or personal vehicle, subsection 4 concerning employee personal devices, and the notification requirements in subsection 5 are commendable steps toward safeguarding employee privacy.

The private right of action provision in LD 61 allows individuals to seek injunctive relief and recover civil penalties and attorney's fees independently through the court system. This approach may lead to inconsistent enforcement and place the burden of legal action on individual employees.

Alternatively, if enforcement were assigned to the Maine Department of Labor, the Department could establish standardized procedures for handling complaints, conduct investigations, and impose penalties for violations – should the bill be amended to do so. This centralized enforcement mechanism could ensure uniform application of the law and potentially provide a more accessible avenue for employees to report concerns without initiating personal legal action. We must note, however, that while this specific piece of legislation may not directly require an additional full-time position, the Department believes in being transparent about our capacity. Regardless of the merits of the proposal itself, we must emphasize that the introduction of any new protections would inevitably require the addition of at least one full-time position to bolster proper implementation and enforcement.

The Department recognizes the bill's intent to fill a gap in current statutes regarding employer surveillance and acknowledges the attempt to balance the interests of employers and the privacy rights of employees.

Thank you for your time and consideration. I am happy to answer any questions you may have now or at a future work session.

The Maine Department of Labor is committed to serving Maine workers and businesses by helping employers recruit and train a talented workforce, providing workers with skills needed to compete in our economy, assisting individuals when jobs are lost, aiding people with disabilities reach career goals, ensuring safe and fair workplaces for people on the job and providing research and analysis of employment data to support job growth.