

Insights: Publications

No Robo Bosses: California Requires Human Review Before AI-Driven Workplace Discipline

October 2, 2026

Written by **Kendra C. Chapman**, **Susan W. Pangborn**, **James Smith** and **Mariah Elizabeth Pavich Weaver**

On September 30, 2026, Governor Gavin Newsom signed Senate Bill 947, the “Employment: Automated Decisions Systems” bill, known as the No Robo Bosses Act. The new law puts human judgment between automated decision systems (ADS) and workplace discipline and prohibits employers from relying solely on an ADS to discipline or terminate an employee under the California Labor Code. The law also creates post-decision notice and access rights, requires employers to anonymize personal information, and exposes employers to civil penalties for violations. It is the first law of its kind in the nation, and it could have significant implications for how California employers use AI performance management, discipline, and termination decisions in California.

The new law becomes effective on **July 1, 2027**, giving employers a runway to prepare.

What Counts as an ADS?

Under the No Robo Bosses Act, an ADS is any computational process or software derived from machine learning, statistical modeling, data analytics, or artificial intelligence that generates output—such as a score, ranking, classification, or recommendation—used to assist or replace human discretionary decision-making in an employment decision. Not all forms of automated processes or software will qualify as an ADS under the new law, and not all uses of ADS are prohibited in employment decisions. For example, an ADS does not include a spam email filter, firewall, antivirus software, access management tool, calculator, dataset, or other compilations of data. Further, the law does not prohibit ADS use in disciplinary or termination decisions outright. Instead, an employer may not rely solely on an ADS, but it still may use one to assist with these decisions, provided that a human reviewer corroborates the ADS output before the decision is final.

What SB 947 Requires

Beginning July 1, 2027, an employer may not rely *solely* on an ADS when making a disciplinary or termination decision. If an employer *primarily* relies on ADS output, a human must corroborate the proposed decision by reviewing the data used to generate the output or other relevant supporting information, such as supervisory or managerial evaluations, personnel files, employee work product, peer reviews, witness interviews, or relevant online customer reviews. A human reviewer must do more than rubber-stamp the ADS result. The human reviewer must exercise independent judgment to verify the output before the firing or disciplinary decision is final.

SB 947 also bars employers from using an ADS to (1) violate any labor, employment, occupational health and safety, or civil rights laws; (2) infer an employee's protected characteristics under the Fair Employment and Housing Act (FEHA); or (3) predict whether or when an employee will exercise legal rights and then take adverse action against the employee on that basis.

Employer Notice, Employee Rights, and Exposure

Data Access

When an employer relies primarily on an ADS to discipline or terminate an employee, the affected employee may request a meaningful, objective description of the data that the ADS used. The response should be factual, understandable, and identify the relevant data rather than simply summarizing or restating the reason for the disciplinary or termination decision. The employer must first anonymize personal information about customers, other employees, or other individuals before providing a description of employee data pursuant to a request.

Written Notice

When an employer primarily relies upon an ADS to make a termination or disciplinary decision, the employer must also give the employee a written notice regarding the use of an ADS when it informs the employee of the outcome. The notice must be a separate, stand-alone communication written in the language the employer normally uses to communicate with the employee. The notice must be simply worded, easy for the employee to access (for example, via email, hyperlink, or written document), state that the employer primarily relied upon an ADS to make the disciplinary or termination decision, and confirm that a human reviewed and verified the ADS output. Finally, the notice must identify a human employer contact for the employee to direct questions or request more information and expressly state that retaliation for exercising protected rights under the No Robo Bosses Act is prohibited.

Enforcement

The law empowers the Labor Commissioner to enforce SB 947, including issuing citations against employers who violate the law and filing civil lawsuits against offending employers. Public prosecutors may also bring civil enforcement actions to enforce the law. Violations of the law carry a civil penalty of \$500 per violation in addition to potential injunctive relief, punitive damages, attorneys' fees and costs, and other remedies.

In a key change to earlier versions of the bill, the final law does not include an express private right of action for employees. However, the law provides for burden-shifting, which may encourage employees' counsel to raise violations of the law in subsequent litigation. Specifically, once it is shown that an ADS was used for a disciplinary or termination decision, the burden of proof shifts to the employer to prove either that it did not primarily rely on the ADS or that it complied with the law's human-review and notice requirements. This burden-shifting provision applies broadly to “any civil action or administrative proceeding.”

SB 947 does not clearly define when a “violation” of the law occurs—whether per employee, per decision, or another event. Until the regulations are clarified, employers should assume that penalties may be assessed for each decision and each individual affected employee. To prepare to defend against potential future claims under the No Robo Bosses Act, employers using ADS should keep contemporaneous records showing what the ADS

did, what the human reviewer considered, and how and when the notice was provided for each decision to each employee.

There are narrow exceptions to SB 947 for certain industries and unionized workforces covered by a valid collective bargaining agreement expressly waiving the bill's provisions. Employers should consult with experienced employment counsel to evaluate whether an exception to the law may apply to their business.

How SB 947 Fits Into California's Current AI Regulations

SB 947 adds to a growing body of California regulation addressing the use of AI in the workplace. Separately, FEHA automated decision system regulations adopted by the California Civil Rights Council took effect October 1, 2025. Those regulations prohibit discriminatory use of an ADS or selection criteria and require employers to retain ADS-related employment records for four years. SB 947's notice requirement generally satisfies substantially similar state ADS notice requirements, but does not eliminate other applicable notice, privacy, or recordkeeping obligations. Notably, a business subject to the California Consumer Privacy Act (CCPA) remains subject to any automated-decision-making technology privacy regulations adopted by the California Privacy Protection Agency (CPPA), even if it complies with SB 947's notice requirement.

What's Next?

Although the law does not become effective until July 1, 2027, California employers should begin preparing for these new restrictions now by adopting a compliance plan that addresses the following:

- Identify workplace tools that may qualify as an ADS and assess how their outputs affect disciplinary and termination decisions, including any vendor-supplied software embedded into broader HR platforms.
- Prepare a documented human-review procedure that designates who reviews proposed disciplinary or termination decisions, identifies the evidence the reviewer should examine, provides guidance for how to reach and record human conclusions, and establishes processes for preserving ADS data and supporting evidence.
- Develop compliant notices and processes for responding to employee requests, coordinate implementation with vendors, and align workflows with the overlapping FEHA recordkeeping and CCPA/CPPA privacy obligations discussed above.
- Train managers, human resources, and other performance reviewers on the new law, including the prohibitions against sole reliance on an ADS in disciplinary or termination decisions.

If you are considering whether to utilize an ADS for employment decisions, evaluating your current use of AI, auditing existing tools, building a compliance process, or analyzing how these anticipated changes may affect your business, contact the authors or your Kilpatrick Townsend & Stockton attorney for additional guidance and personalized recommendations for your business.

Related People



Kendra C. Chapman

t 415.273.4386

kchapman@ktslaw.com



Susan W. Pangborn

t 404.815.6305

spangborn@ktslaw.com



James Smith

t 415.273.4317

james.smith@ktslaw.com



Mariah Elizabeth Pavich Weaver

t 415.273.8318

mariah.weaver@ktslaw.com