

# HB4987



## 104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB4987

by Rep. Nabeela Syed

### SYNOPSIS AS INTRODUCED:

New Act

Creates the Surveillance-Based Wage Discrimination Act. Provides that a person shall not use surveillance data as part of an automated decision system to inform the individualized wage paid to an employee. Sets forth exemptions to the provisions. Provides that the Attorney General shall enforce the Act. Sets forth provisions concerning private rights of action and penalties for violations.

LRB104 17758 SPS 31190 b

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Surveillance-Based Wage Discrimination Act.

6 Section 5. Definitions. As used in this Act:

7 "Automated decision system" means any system, software, or  
8 process, including one derived from machine learning,  
9 statistics, or other data processing or artificial  
10 intelligence techniques and excluding passive computing  
11 infrastructure, that uses computation, the result of which is  
12 used to assist or replace human decision-making.

13 "Behaviors" mean an individual's observable, measurable,  
14 or inferred actions, habits, preferences, interests, or  
15 vulnerabilities, including an individual's political,  
16 personal, or professional affiliations, web browsing history,  
17 purchase history, financial circumstances, or consumer  
18 behaviors.

19 "Biometric information" means data or information  
20 generated by the technological, processing, measurement, or  
21 analysis of an employee's biological, physical, or behavioral  
22 characteristics, that can be used for the purpose of uniquely  
23 identifying an individual. "Biometric information" includes

1 fingerprints, voiceprints, scans or records of an eye retina  
2 or iris, facial maps, facial geometry, facial templates,  
3 genetic information, or other unique biological, physical, or  
4 behavioral patterns or characteristics.

5 "Employee" has the meaning set forth in the Illinois Wage  
6 Payment and Collection Act.

7 "Genetic information" has the meaning set forth in the  
8 Health Insurance Portability and Accountability Act of 1996,  
9 as specified in 45 CFR 160.103.

10 "Individualized" means specific to an individual or group,  
11 band, class, or tier of individuals with particular personal  
12 characteristics, behaviors, or biometric information.

13 "Personal characteristics" means individual qualities,  
14 features, attributes, or traits, including immutable  
15 characteristics, such as race and eye color, mutable  
16 characteristics, such as address, weight, citizenship, or  
17 parenthood status, and any other personally identifiable  
18 information that could be used to identify an individual,  
19 including social security number, name, or phone number.

20 "Surveillance data" means data obtained through  
21 observation, inference, or surveillance of an employee that is  
22 related to personal characteristics, behaviors, or biometric  
23 information of the individual or group, band, class, or tier  
24 of individuals of which the individual is a part.  
25 "Surveillance data" includes information gathered, purchased,  
26 or otherwise acquired.

1 "Wage" has the meaning set forth in the Illinois Wage  
2 Payment and Collection Act.

3 Section 10. Prohibit surveillance-based wage  
4 discrimination.

5 (a) A person shall not use surveillance data as part of an  
6 automated decision system to inform the individualized wage  
7 paid to an employee. A person does not violate this subsection  
8 if the person:

9 (1) offered individualized wages based solely on:

10 (A) data specific to the individual employee that  
11 is directly related to the tasks the employee was  
12 hired to perform; or

13 (B) differences in the cost to the employee of  
14 providing labor to the person;

15 (2) discloses in plain language before hiring an  
16 employee whose wages are set in whole or in part through  
17 automated decision-making what data is considered and how  
18 automated decision-making considers that data; and

19 (3) developed and proactively provided to employees  
20 reasonable procedures to ensure the accuracy of all data  
21 considered by an automated decision-making system in  
22 setting wage rates, as determined by rule.

23 (b) This Section shall not apply to a person who makes a  
24 decision not to hire an employee that the person has not  
25 previously employed.

1           Section 15. Enforcement. The Attorney General shall  
2 enforce this Act. A person who violates this Act shall be  
3 subject to a civil penalty not to exceed \$10,000 for each  
4 violation and reasonable attorney's fees. A violation of any  
5 provision of this Act shall constitute a separate violation  
6 with respect to each employee.

7           Section 20. Private right of action.

8           (a) A person aggrieved by a violation of this Act may bring  
9 a civil action on behalf of themselves or a group of similarly  
10 situated persons to restrain further violations and to recover  
11 damages, costs, and reasonable attorney's fees, including the  
12 greater of:

13                   (1) the amount of actual damages sustained;

14                   (2) \$3,000 for each violation; or

15                   (3) 3 times the amount of actual damages sustained, if  
16 it is established by clear and convincing evidence that  
17 the person who violated this Act engaged in bad faith  
18 conduct or intentionally violated this Act.

19           (b) A violation of any provision of this Act shall  
20 constitute a separate violation with respect to each employee.

21           Section 25. Relationship with other laws. Nothing in this  
22 Act, including the enforcement authority granted to the  
23 Attorney General, preempts or otherwise affects any other

1 right, claim, remedy, presumption, or defense available at law  
2 or in equity.

3 Section 30. Rulemaking. The Attorney General may adopt  
4 rules necessary to implement and enforce this Act.