



SPONSOR: Rep. Keeley

HOUSE OF REPRESENTATIVES

141st GENERAL ASSEMBLY

HOUSE BILL NO. 539

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO NOTICE OF MONITORING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend §705, Title 19 of the Delaware Code by striking subsection (b) in its entirety and by
2 substituting in lieu thereof the following:

3 "(b) No employer, nor any agent or representative of any employer, shall monitor or otherwise intercept
4 any telephone conversation or transmission, electronic mail or transmission, or internet access or usage of or by
5 an employee, unless the employer first notifies the employee as follows. An employer must provide a one-time
6 written notice to an employee of such monitoring policy, which notice must be signed as having been received
7 by the employee. In lieu of such one-time written notice, an employer may notify an employee as follows. First,
8 with respect to any employee who uses a computer terminal, the computer monitor must provide an electronic
9 notice of such monitoring or intercepting policies or activities to the employee every time the computer is turned
10 on. Second, if an employer utilizes a manual or handbook, then such manual or handbook must be updated to
11 reflect such monitoring or intercepting policies or activities, which update must be either provided electronically
12 or in writing to the employee and which must be acknowledged either in writing or electronically by the
13 employee. The acknowledgement by the employee is that the employee has received notice of the monitoring.
14 The notice required by this section shall not apply to any activities of any law enforcement officer acting under
15 an order of the court pursuant to Chapter 24, Title 11."

SYNOPSIS

This Act amends the current notice of monitoring law. Currently, an employer must give a one-time notice to an employee that the employer is monitoring telephone, e-mail or internet usage, which notice must be in writing and signed by the employee. This Act changes the notice requirement so that before an employer can engage in monitoring activities, the employer must notify the employee of such monitoring activity. This can be done either by providing the employee with a one-time notice and obtaining the employee's signature acknowledging receipt of the notice, or alternatively, by doing the following: (1) placing a message on the computer screen of any employee who has a

computer; and (2) providing an update to a manual or handbook notifying the employee of the monitoring policy for any employer that utilizes a handbook or manual, which handbook update must be acknowledged either in writing or electronically by the employee.