

THURSDAY, OCTOBER 8, 2026

California's new AI employment bills: What employers need to know

California's new laws governing AI-driven employment decisions and layoffs require employers to rethink human oversight, transparency and workforce planning to mitigate potential liability.

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With the recent passage of the No Robo Bosses Act (SB 947) and amendments to the California WARN Act (SB 951), California has pioneered new guidance for employers' use of AI in employment decisions. Gov. Newsom's Sept. 30 approval of both statutes (despite vetoing prior versions) comes amid growing skepticism about the unchecked use of increasingly pervasive AI tools. It also provides opportunities for employers to prevent or mitigate employment-related risks that have led to liability in individual and representative action across several industries.

California HR executives, corporate counsel and business owners must understand these legislative changes to mitigate preventable risks and steer their businesses toward accomplishing business objectives.

"No Robo Bosses Act":

Preventing autonomous firing

This statute, effective July 1, 2027, prohibits employers from relying solely on automated decision systems to make consequential employment decisions. California employers may still use AI as a tool in such decisions but must ensure a human being is in the loop. Employers who continue to employ AI to make key employment decisions must provide notice to the impacted employee explaining AI input on the decision,



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state whether a human being was involved in the decision and provide contact information for an individual who can be contacted for more information. The bill reflects growing concern that unchecked AI may produce harmful outcomes without adequate accountability or recourse.

Key takeaways for employers:

- **Mandatory human oversight:** Before taking disciplinary action or terminating employees based on input from AI tools, a human manager must review the automated data and corroborate the findings using independent personnel records or tangible work product.

- **Prohibition on behavioral predictions:** The law restricts companies from using automated systems to analyze personal data for the purpose of predicting future employee behavior or inferring protected characteristics. In this case, AI use is presumptively impermissible even if supported by human input.

- **The transparency mandate:** Employers must notify employees when automated tools are used to monitor performance or inform significant employment decisions. That notice must explain the AI use, state whether a person was involved in the decision and provide contact information to seek more information. Employees also have a right to re-

quest an objective description of AI's impact on the decision.

AI-driven layoffs and the California WARN Act

SB 951 amends the California WARN Act to impose new notice requirements when mass layoffs, relocations or terminations are driven "in whole or in substantial part" by AI or other automated technology. The statute extends the requirement to provide 90 days' advance notice of a "technological displacement" affecting 25 or more workers or 25% of the workforce, whichever is less. SB 951 also requires employers to provide WARN-type notice for technology-related layoffs, including a statement

that “This notice is for a technology displacement,” and identification of: (1) the number, classification, occupation and work location of employees displaced by the technology; (2) the job functions that will be automated; and (3) the category or type of AI system or other automated technology responsible for the displacement.

Notably, SB 951 does not define when a technological displacement is attributable “in substantial part” to AI. Employers addressing this ambiguity may presume the statute requires a direct nexus between the technology and the layoff rather than an indirect or minimal connection. Yet until further amendment or case law clarifies this language, employers can mitigate risk by maintaining human oversight of AI’s role in RIF decisions and complying with the notice requirements established by SB 951.

Key takeaways for employers:

- *The “technology displacement” header:* If a mass layoff is triggered in whole or in substantial part by automation, the written notice provided to employees must prominently feature the phrase: “This notice is for a technology displacement” at the top of the document.
- *Granular disclosures required:* Employers cannot simply state that

technology is responsible. The notice must explicitly identify the exact type of AI or automated system implemented and detail the specific human job functions being replaced.

- *Public tracking and accountability:* Notice data will be reviewed by the Employment Development Department (EDD), which will publish technological displacement summaries online.

Operational action plan: Next steps for employers

While AI may enhance operational efficiency, these bills underscore that employers remain ultimately responsible for the decisions and outcomes generated by AI-driven tools.

To ensure compliance, California employers should:

- *Establish a “human-in-the-loop” policy:* Audit HR workflows to ensure no automated productivity alert can trigger an automatic write-up or termination. Create a clear compliance paper trail proving that a human supervisor independently verified the algorithmic output before taking action.
- *Audit technology implementations:* Work closely with procurement and IT teams to identify if newly adopted software or AI systems will eliminate or substantially alter existing human roles.

- *Assess and adapt workforce planning:* Proactively review how incoming automation affects current roles. Assessing these shifts early allows leadership to properly plan for employee transitions and accurately identify when structural changes trigger SB 951 disclosure mandates.

- *Revise Cal-WARN checklists and templates:* Update internal reduction-in-force playbooks to include specific triggers for technology displacement. Ensure legal teams can seamlessly

integrate the required text headers and technology descriptions into mandated notices.

California’s new pair of statutes addressing AI protections in employment represent California’s direct legislative effort to address potential employment-related dangers posed by AI use in the workplace. Employers who pay close attention to AI use in employment decisions and plan for notice requirements triggered by these laws will be best positioned to mitigate potential liability.

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