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COMMENTS ON 19-H 5255
RELATING TO STATE AFFAIRS AND GOVERNMENT – DEPARTMENT OF ADMINISTRATION
March 12, 2019

The ACLU appreciates the opportunity to comment on H 5255, which would require the use of computer software by certain state contractors in order to verify the hours worked by computer. While we do not oppose confirming that contractors are doing the work asked of them, we are concerned about the significant privacy violations which could arise from the implementation of the software that this legislation would require.

The bill would mandate that contractors use software which provides the contracting state agency with “real-time or retroactive access” to collected data, and which automatically takes a screenshot of “state-funded activity at least once every three (3) minutes.” These screenshots would also be made available to the agency in “real time.” While the bill stipulates that the software “must not capture any data that is private or confidential on individuals,” it is ultimately unclear how these conditions can be reconciled.

Our concerns rest in the intrinsic privacy violations that occur through the collection of data. Although the bill specifically would require “screenshots” of computers on which state-funded activity is happening, it also allows access to “data” collected by the software. With no explicit limits to this collected “data”, or even parameters for what it could entail, it is impossible to imagine that the software employed for this purpose could consistently and verifiably *only* store data relating to contracted work.

For instance, this language could allow the use of keylogging software, which can track all keys struck on a keyboard, or monitoring software which can track the amount of idle time on a computer, create logs of all websites visited during the tracking period, and record incoming and outgoing email. In addition to the inescapable invasion of privacy provided by timed, consistent screenshots, sensitive and private information, such as account passwords or personally identifying details, is bound to be collected through any of these other methods of collecting data.

Additionally, we recognize that many contracted individuals may be using computers that function for both personal and business use. Once again, it is inherent that the contractor’s privacy will be violated by the nature of this proposed software, and that information will be gathered that is both personal in nature and irrelevant to the contracted job.

The ACLU urges further consideration be given to the extent and monitoring provisions of this legislation, so that employees and contractors can be reliably protected from infringement of privacy by their employer. No matter the well-intentioned nature of this legislation, the implications of keystroke and screenshot monitoring are eerily Orwellian.