CLIENT ALERTS & INSIGHTS

California's New AI Disclosure Rules for Employers and Litigators

AI Disclosure Amendment to Cal-WARN

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Key Takeaways

- California has enacted new AI-related requirements, including disclosure obligations for AI-driven layoffs and the use of AI in court filings.
- The new laws are intended to increase transparency and accountability as AI becomes more integrated into employment decisions and legal practice.
- Employers should document the role of AI in workforce reductions, while attorneys should establish procedures for reviewing AI-generated content, verifying citations, and safeguarding confidential information.

Starting January 1, 2027, California employers will be required to disclose when a mass layoff is caused by the employer's use of artificial intelligence (AI) or other automation technology.

SB 951 amends the California Worker Adjustment and Retraining Notification (Cal-WARN) Act to require employers to give notice of a mass layoff, relocation, or termination caused in whole or in substantial part by an AI system or other automated technology that replaces or automates employment positions. The law defines AI as an engineered, machine-based system with varying levels of autonomy that infers from inputs to generate outputs influencing physical or virtual environments.

The notice must include:

1. The number of layoffs and the job functions performed by affected workers that will be automated by AI or other automated technology.
2. The type of AI system or other automating technology that substantially resulted in the technological displacement.
3. The statement "This notice is for a technology displacement" at the top of the notice.

The California Employment Development Department (EDD) will publish a summary of the AI-related notices on its website, along with a quarterly summary of reported technological displacements.

The law does not change Cal-WARN's coverage thresholds, 60-day notice period, or penalties. To prepare for the new requirements, employers should document the business reasons for any mass layoff, relocation, or termination, including the extent to which AI or other automated technology contributed to the decision.

Attorney Disclosure Requirement for Use of AI

Starting January 1, 2027, California attorneys must disclose when they have used AI to create any document filed with the court. SB 574 adds Section 6068.1 to the Business and Professions Code, amends Code of Civil Procedure Section 128.7, and adds new rules for arbitrators.

The law expressly prohibits "the delegation of the practice of law to AI" and also requires lawyers to:

1. Take reasonable steps to correct erroneous or hallucinated AI-generated materials;
2. Take reasonable steps to verify every citation before filing; and
3. Refrain from entering confidential, personal identifying, and other nonpublic information into AI systems unless access is restricted to the attorney and authorized persons who are themselves bound by confidentiality obligations.

Violations of the law may result in attorney sanctions, including fees and penalties, as well as discipline by the State Bar of California.

The Benesch Labor & Employment Practice Group will continue to monitor developments and provide updates as appropriate. If you have any questions, please reach out to the team.