STATE OF NEW YORK

7543

2023-2024 Regular Sessions

IN SENATE

June 5, 2023

Introduced by Sen. GONZALEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the state technology law, in relation to automated decision-making by state agencies

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "legislative oversight of automated decision-making in government act (LOADinG Act)".

§ 2. The state technology law is amended by adding a new article 4 to read as follows:

ARTICLE IV

AUTOMATED DECISION-MAKING IN STATE GOVERNMENT

Section 401. Definitions.
402. Use of automated decision-making by agencies.
403. Impact assessments.

§ 401. Definitions. For the purpose of this article:

1. "Automated decision-making" shall mean automated or algorithmic decision-making, using algorithms, computational models, or artificial intelligence techniques to aid or replace human decision-making. Automated decision-making shall include, without limitation, any processing of data and application of predefined rules or machine learning algorithms to analyze such data and generate conclusions, recommendations, outcomes, assumptions, or predictions used to make decisions with or without meaningful human review and discretion.

2. "State agency" shall mean any department, public authority, board, bureau, commission, division, office, council, committee or officer of the state. Such terms shall not include the legislature or judiciary.

§ 402. Use of automated decision-making by agencies. 1. Any state agency, or any entity acting on behalf of such agency, shall be prohibited from, directly or indirectly, utilizing or applying any automated

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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decision-making in performing any function that: (a) is related to the delivery of any public service; (b) will have a material impact on the provision of public services; or (c) affects any statutorily or constitutionally provided right of an individual, unless such utilization or application is specifically authorized in law.

2. No state agency shall authorize any procurement, purchase or acquisition of any service or system utilizing, or relying on, automated decision-making prohibited in subdivision one of this section, except where the use of such system is specifically authorized in law.

§ 403. Impact assessments. 1. Notwithstanding section four hundred two of this article, no agency shall utilize or apply any automated decision-making unless the agency, or an entity acting on behalf of such agency, shall have conducted an impact assessment for the application and use of such decision-making. Such impact assessment shall include:

(a) description and evaluation of the objectives and development of the automated decision-making including the design and training data used to develop the automated decision-making process; and

(b) testing for accuracy, fairness, bias and discrimination, and an assessment whether the use of automated decision-making produces discriminatory results on the basis of a consumer's or class of consumers' actual or perceived race, color, ethnicity, religion, national origin, sex, gender, gender identity, sexual orientation, familial status, biometric information, lawful source of income, or disability and outlines mitigations for any identified performance differences across relevant groups impacted by such use. Notwithstanding the provisions of this article or any other law, if the assessment finds that the automated decision-making system produces discriminatory or biased outcomes, the state agency shall be prohibited from utilizing or applying such automated decision-making system.

2. Any impact assessment done pursuant to subdivision one of this section shall be submitted to the governor, the temporary president of the senate, and the speaker of the assembly at least thirty days prior to any use or implementation, other than for testing, of automated decision-making that is the subject of such assessment, and shall be made publicly available on the website of the relevant agency.

§ 3. This act shall take effect on the thirtieth day after it shall have become a law.