

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:

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

4 § 2. The state technology law is amended by adding a new article 4 to
5 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:

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

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

23 § 402. Use of automated decision-making by agencies. 1. Any state
24 agency, or any entity acting on behalf of such agency, shall be prohib-
25 ited 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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1 decision-making in performing any function that: (a) is related to the
2 delivery of any public service; (b) will have a material impact on the
3 provision of public services; or (c) affects any statutorily or consti-
4 tutionally provided right of an individual, unless such utilization or
5 application is specifically authorized in law.

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

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

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

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

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

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