

STATE OF NEW YORK

10147

IN SENATE

April 30, 2026

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

AN ACT to amend the labor law, in relation to restricting the use of electronic monitoring and automated employment decision tools

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

1 Section 1. The labor law is amended by adding a new article 35-A to
2 read as follows:

ARTICLE 35-A

BOUNDARIES ON TECHNOLOGY ACT

Section 1010. Definitions.

6 1011. Automated employment decision tools; impact assessments.

7 1012. Automated employment decision tools; notice and
8 restrictions.

9 1013. Data access, accuracy, and correction.

10 1014. Unlawful retaliation.

11 1015. Vendor notice.

12 1016. Enforcement.

13 § 1010. Definitions. For the purposes of this section, the following
14 terms have the following meanings:

15 1. "Aggregated employee data" means employee data that an employer has
16 combined, or collected together, in a summary or other form so that the
17 employee data cannot be identified with any specific employee.

18 2. "Automated employment decision tool" means the same as defined in
19 section four hundred one of the state technology law.

20 3. "Candidate" means any natural person or their authorized represen-
21 tative seeking employment through an application, or who is screened or
22 evaluated for recruitment, for a position of employment by a business
23 operating in the state.

24 4. "Employer" means any person who directly or indirectly, or through
25 an agent or any other person, employs or exercises control over the
26 wages, benefits, other compensation, hours, working conditions, access
27 to work or job opportunities, or other terms or conditions of employ-
28 ment, of any worker. Such term shall not include the state, any poli-

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

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1 tical subdivision of the state, a public authority, or any other govern-
2 mental agency or instrumentality.

3 5. "Employee" means any natural person or their authorized represen-
4 tative acting for, employed by, or a person classified as an independent
5 contractor providing service to, or through, an employer operating in
6 the state. An employee shall be deemed to be operating in the state for
7 purposes of deeming an employee to be covered by this article if the
8 employee works at least part time at a location in the state, or if
9 fully remote, the employee is associated with an office in the state or
10 supervised by a person who works at least part time at a location in the
11 state. Employee can mean a former employee.

12 6. "Employee data" means any information that identifies, relates to,
13 describes, is reasonably capable of being associated with, or could
14 reasonably be linked, directly or indirectly, with a particular employ-
15 ee, regardless of how the information is collected, inferred, or
16 obtained. Data includes, but is not limited to, the following:

17 (a) personal identity information, including the individual's name,
18 contact information, government-issued identification number, financial
19 information, criminal background, or employment history;

20 (b) biometric information that can be used to establish individual
21 identity;

22 (c) health information, including the individual's medical history,
23 physical or mental condition, diet or physical activity patterns, heart
24 rate, medical treatment or diagnosis by a health care professional,
25 health insurance policy number, subscriber identification number, or
26 other unique identifier used to identify the individual; and

27 (d) data related to workplace activities, including the following:

28 (i) human resources information, including the contents of an individ-
29 ual's personnel file or performance evaluations;

30 (ii) work process information, such as data relating to an individual
31 employee's performance, including but not limited to quantities of tasks
32 performed, quantities of items or materials handled or produced, rates
33 or speeds of tasks performed, measurements or metrics of employee
34 performance in relation to a quota, and time categorized as performing
35 tasks or not performing tasks;

36 (iii) data that captures workplace communications and interactions,
37 including emails, texts, internal message boards, and customer inter-
38 action and ratings;

39 (iv) device usage and data, including calls placed or geolocation
40 information;

41 (v) inputs to or outputs generated by an automated employment decision
42 tool that are linked to the individual; and

43 (vi) data collected or generated on workers to mitigate the spread of
44 infectious diseases, including COVID-19, or to comply with public health
45 measures.

46 7. "Employment decision" means any decision made by the employer that
47 affects wages, benefits, other compensation, hours, work schedule,
48 performance evaluation, hiring, selecting for recruitment, discipline,
49 promotion, termination, job content, assignment of work, access to work
50 opportunities, productivity requirements, and workplace health and safe-
51 ty. For persons classified as independent contractors or for candidates
52 for employment, this means the equivalent of these decisions based on
53 their contract with or relationship to the employer.

54 8. "Impact assessment" means an evaluation by an impartial auditor
55 that complies with section one thousand eleven of this article.

1 9. "Impartial auditor" means a person or entity that conducts an
2 impact assessment of an automated employment decision tool in a manner
3 that exercises objective and impartial judgment on all issues within the
4 scope of such evaluation or assessment.

5 10. "Protected class" means a class enumerated in section two hundred
6 ninety-six of the executive law.

7 11. "Vendor" means any person or entity who sells, distributes, or
8 develops for sale an automated employment decision tool to be used in an
9 employment decision made by an employer in the state. "Vendor" includes
10 any of the vendor's agents, contractors, or subcontractors.

11 § 1011. Automated employment decision tools; impact assessments. 1. It
12 shall be unlawful for an employer with one hundred or more employees to
13 use an automated employment decision tool for an employment decision
14 unless such tool has been the subject of an impact assessment. Impact
15 assessments for automated employment decision tools must:

16 (a) be conducted no more than one year prior to the use of such tool,
17 or where the tool was in use by the employer before the effective date
18 of this article, within six months of the effective date of this arti-
19 cle;

20 (b) be conducted by an impartial party with no financial or legal
21 conflicts of interest;

22 (c) identify and describe the attributes and modeling techniques that
23 the tool uses to produce outputs;

24 (d) consider, identify, and describe any outputs produced by the tool
25 that may result in a disparate impact on persons belonging to a
26 protected class, and what actions may be taken by the employer or vendor
27 of the tool to reduce or remedy that disparate impact;

28 (e) consider and describe potential sources of adverse impact against
29 protected classes that may arise after the tool is deployed;

30 (f) identify and describe any other assessment of risks of discrimi-
31 nation or a disparate impact of the tool on members of a protected class
32 that arise over the course of the impact assessment, and what actions
33 may be taken to reduce or remedy that risk;

34 (g) for any finding of a disparate impact or limit on accessibility,
35 evaluate whether the data set, attribute, or feature of the tool at
36 issue is the least discriminatory method of assessing a candidate's
37 performance or ability to perform job functions; and

38 (h) be submitted in its entirety or an accessible summary form to the
39 department for inclusion in a public registry of such impact assessments
40 within sixty days of completion, and distributed to employees who may be
41 subject to the tool.

42 2. An employer subject to the provisions of this section shall conduct
43 or commission subsequent impact assessments each year that the tool is
44 in use for employment decisions. Subsequent impact assessments shall
45 comply with the requirements of subdivision one of this section, and
46 shall assess and describe any change in the validity or disparate impact
47 of the tool.

48 3. An employer or vendor subject to the provisions of this section
49 shall retain all documentation pertaining to the design, development,
50 use, and data of an automated employment decision tool that may be
51 necessary to conduct an impact assessment for a period of three years to
52 ensure compliance with commissioner requests for data.

53 4. If an initial or subsequent impact assessment requires the
54 collection of employee data to assess a tool's disparate impact on
55 employees, such data shall be collected, processed, stored, and retained
56 in such a manner as to protect the privacy of employees, and shall

1 comply with any data retention and security requirements specified by
2 the commissioner. Employee data provided to auditors for the purpose of
3 an impact assessment shall not be shared with the employer, nor shall it
4 be shared with any person, business entity, or other organization unless
5 strictly necessary for the completion of the impact assessment.

6 5. If an initial or subsequent impact assessment concludes that a data
7 set, feature, or application of the automated employment decision tool
8 results in a disparate impact on persons belonging to a protected class,
9 an employer shall refrain from using the tool until it:

10 (a) takes reasonable and appropriate steps to remedy that disparate
11 impact; and

12 (b) where the employer believes the impact assessment finding of a
13 disparate impact is erroneous, or that the steps taken in accordance
14 with paragraph (a) of this subdivision sufficiently address those find-
15 ings such that the tool may be lawfully used in accordance with this
16 article, the employer shall submit to the commissioner how the data set,
17 feature, or application of the tool is the least discriminatory method
18 of assessing an employee's performance or ability to complete essential
19 functions of a position.

20 6. It shall be unlawful for an impartial auditor, vendor, or employer
21 to manipulate, conceal, or misrepresent the results of an impact assess-
22 ment.

23 7. Nothing in this article shall be construed as prohibiting an
24 employer from implementing a lawful affirmative action plan or engaging
25 in otherwise lawful efforts to reduce or eliminate bias in employment
26 decisions.

27 § 1012. Automated employment decision tools; notice and restrictions.

28 1. (a) Any employer that uses an automated employment decision tool to
29 assess or evaluate an employee or candidate shall notify employees and
30 candidates subject to the tool before or at the time an employment deci-
31 sion is made:

32 (i) that an automated employment decision tool will be used in
33 connection with the assessment or evaluation of such employee or candi-
34 date;

35 (ii) the job qualifications and characteristics that such automated
36 employment decision tool will assess, what employee or candidate data or
37 attributes the tool will use to conduct that assessment, and what kind
38 of outputs the tool will produce as an evaluation of such employee or
39 candidate;

40 (iii) what employee or candidate data is collected for the automated
41 employment decision tool, the source of such data and the employer's
42 data retention policy. Information pursuant to this section shall not
43 be disclosed where such disclosure would violate local, state, or feder-
44 al law, or interfere with a law enforcement investigation; and

45 (iv) for employers subject to the provisions of section one thousand
46 eleven of this article, the results of the most recent impact assessment
47 of the automated employment decision tool, including any findings of a
48 disparate impact and associated response from the employer, or informa-
49 tion about how to access that information if publicly available.

50 (b) The notice required by this subdivision shall be:

51 (i) written in clear and plain language;

52 (ii) included in each job posting or advertisement for each position
53 for which the automated employment decision tool will be used; and

54 (iii) posted on the employer's website in English and the ten most
55 commonly spoken non-English languages in the state.

1 2. (a) Notwithstanding the provisions of section one thousand ten of
2 this article, an employer shall not use an automated employment decision
3 tool:

4 (i) in such a manner that results in a violation of labor, employment,
5 civil rights or human rights law or any other law of this state; or

6 (ii) in a manner not consistent with the scope of the impact assess-
7 ment required by section one thousand ten of this article.

8 (b) An employer shall not solely rely on output from an automated
9 employment decision tool when making hiring, promotion, termination,
10 disciplinary, or compensation decisions. For an employer to satisfy the
11 requirements of this paragraph:

12 (i) An employer shall establish meaningful human oversight of such
13 decisions based in whole or in part on the output of automated employ-
14 ment decision tools. Such meaningful human oversight of such decisions
15 shall require consideration of information other than automated
16 employment decision tool outputs, including but not limited to: supervi-
17 sory or managerial evaluations, personnel files, employee work products,
18 or peer reviews.

19 (c) An employer shall not require employees or candidates to consent
20 to the use of an automated employment decision tool in an employment
21 decision in order to be considered for an employment decision, nor shall
22 an employer discipline or disadvantage an employee or candidate for
23 employment as a result of their request for accommodation.

24 § 1013. Data access, accuracy, and correction. 1. (a) An employer
25 shall ensure that any employee data that is used by an automated employ-
26 ment decision tool for an employment decision is accurate and, where
27 relevant, kept up to date for a period of three years.

28 (b) A current or former employee whose data was used by an automated
29 employment decision tool for an employment decision has the right to
30 request, and the employer shall provide, a copy of the employee's own
31 data.

32 (c) Such requested records pursuant to this section shall be provided
33 at no cost to the current or former employee. A former employee is
34 limited to one request per year pursuant to this subdivision.

35 (d) An employer that receives a written or oral request for informa-
36 tion pursuant to this section shall comply with the request as
37 soon as practicable, but no later than fourteen calendar days from the
38 date of the request.

39 (e) An employer shall provide information pursuant to this section in
40 English or, if applicable, in the language identified by the employee as
41 the primary language of such employee.

42 (f) An employer that does not monitor this data has no obligation to
43 provide it.

44 2. (a) An employer that receives an employee request to correct inac-
45 curate data shall investigate and determine whether such data is inaccur-
46 rate.

47 (b) If an employer, upon investigation, determines that such data is
48 inaccurate, the employer shall:

49 (i) promptly correct the inaccurate data and inform the employee of
50 the employer's decision and action;

51 (ii) review and adjust, as appropriate, any employment decisions that
52 were based on the inaccurate data and inform the employee of the adjust-
53 ment; and

54 (iii) inform any third parties with which the employer shared the
55 inaccurate data, or from which the employer received the inaccurate

1 data, and direct them to correct it, and provide the employee with a
2 copy of such action.

3 (c) If an employer, upon investigation, determines that the data is
4 accurate, the employer shall inform the employee of the decision not to
5 amend the data, the steps taken to verify the accuracy of the data, and
6 any evidence supporting the decision not to amend the data.

7 § 1014. Unlawful retaliation. For purposes of this article, there
8 shall be a rebuttable presumption of unlawful retaliation if an employer
9 in any manner discriminates, retaliates, or takes any adverse action
10 against any employee within ninety days of the employee doing either of
11 the following:

12 1. Initiating the employee's first request in a calendar year for
13 information pursuant to section one thousand thirteen of this article.

14 2. Making a complaint related to any violation of this article, inclu-
15 sive, to the commissioner, the department, other local or state govern-
16 mental agency, or the employer.

17 § 1015. Vendor notice. 1. Any vendor who sells, distributes, or offers
18 for use to an employer an automated employment decision tool shall noti-
19 fy employers that use of such tool is subject to the requirements of
20 this article. Such notice shall include:

21 (a) information about the requirements of the employer under this
22 article and the exemption from certain requirements or liability under
23 this article according to the employer's size;

24 (b) information about the penalties for non-compliance with this arti-
25 cle and liability imposed on the employer by this article;

26 (c) a copy of or directions on how to access any assessments of dispa-
27 rate impact or bias conducted by the vendor on the automated employ-
28 ment decision tool; and

29 (d) information on or directions on how to access more information
30 regarding the employer's responsibility and liability under this arti-
31 cle.

32 2. The notice required by this section shall be:

33 (a) written in clear and plain language;

34 (b) provided before an employer may begin use of the automated employ-
35 ment decision tool; and

36 (c) otherwise presented in a manner that ensures the notice clearly
37 and effectively communicates the required information to employers.

38 § 1016. Enforcement. 1. The commissioner shall adopt rules and regu-
39 lations implementing the provisions of this article. The commissioner
40 shall be authorized to enforce the provisions of this article and to
41 assess civil penalties as provided in sections two hundred fifteen and
42 two hundred eighteen of this chapter. The civil penalties provided
43 for in this section shall be in addition to and may be imposed concu-
44 rently with any other remedy or penalty provided for in this chapter.

45 2. The attorney general may initiate in a court of competent jurisdic-
46 tion action that may be appropriate or necessary for correction of any
47 violation of this article, including mandating compliance with the
48 provisions of this article, securing injunctive, declaratory, or such
49 other relief as may be appropriate, ordering payment of civil penalties,
50 and recovering damages and liquidated damages.

51 § 2. The opening paragraph of subdivision 1 of section 218 of the
52 labor law, as amended by chapter 43 of the laws of 2023, is amended to
53 read as follows:

54 If the commissioner determines that an employer has violated a
55 provision of article six (payment of wages), article nineteen (minimum
56 wage act), article nineteen-A (minimum wage standards and protective

1 labor practices for farm workers), article twenty-one-A (warehouse work-
2 er protection act), article thirty-five-A (boundaries on technology
3 act), section two hundred twelve-a, section two hundred twelve-b,
4 section one hundred sixty-one (day of rest) or section one hundred
5 sixty-two (meal periods) of this chapter, or a rule or regulation
6 promulgated thereunder, the commissioner shall issue to the employer an
7 order directing compliance therewith, which shall describe particularly
8 the nature of the alleged violation. A copy of such order shall be
9 provided to any employee who has filed a complaint and any authorized
10 representative of [~~him or her~~] such employee. In addition to directing
11 payment of wages, benefits or wage supplements found to be due, and
12 liquidated damages in the amount of one hundred percent of unpaid wages,
13 such order, if issued to an employer who previously has been found in
14 violation of those provisions, rules or regulations, or to an employer
15 whose violation is willful or egregious, shall direct payment to the
16 commissioner of an additional sum as a civil penalty in an amount not to
17 exceed double the total amount of wages, benefits, or wage supplements
18 found to be due. In no case shall the order direct payment of an amount
19 less than the total wages, benefits or wage supplements found by the
20 commissioner to be due, plus the liquidated damages in the amount of one
21 hundred percent of unpaid wages, the appropriate civil penalty, and
22 interest at the rate of interest then in effect, as prescribed by the
23 superintendent of financial services pursuant to section fourteen-a of
24 the banking law per annum from the date of the underpayment to the date
25 of the payment. Where the violation is for a reason other than the
26 employer's failure to pay wages, benefits or wage supplements found to
27 be due, the order shall direct payment to the commissioner of a civil
28 penalty in an amount not to exceed one thousand dollars for a first
29 violation, two thousand dollars for a second violation or three thousand
30 dollars for a third or subsequent violation. In assessing the amount of
31 the penalty, the commissioner shall give due consideration to the size
32 of the employer's business, the good faith basis of the employer to
33 believe that its conduct was in compliance with the law, the gravity of
34 the violation, the history of previous violations and, in the case of
35 wages, benefits or supplements violations, the failure to comply with
36 recordkeeping or other non-wage requirements.

37 § 3. This act shall take effect on the one hundred eightieth day after
38 it shall have become a law. Effective immediately, the addition, amend-
39 ment and/or repeal of any rule or regulation necessary for the implemen-
40 tation of this act on its effective date are authorized to be made and
41 completed on or before such effective date.