STATE OF NEW YORK

7172--B

2025-2026 Regular Sessions

IN ASSEMBLY

March 21, 2025

Introduced by M. of A. BICHOTTE HERMELYN, TAPIA -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to the regulation of the use of artificial intelligence and facial recognition technology in criminal investigations

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

Section 1. Legislative intent. Artificial intelligence tools like Cybercheck and facial recognition technologies have been used extensively in criminal investigations across the U.S., including nearly 8,000 cases in 40 states. However, their use has raised significant legal challenges due to the lack of transparency in their methodologies and concerns over accuracy and reliability. Defense attorneys have successfully argued in several cases that AI-generated evidence should be excluded from court proceedings due to these issues. This act aims to address these concerns by prohibiting the use of AI outputs, including facial recognition, as evidence while allowing their use for investigative purposes, thereby protecting the rights of defendants and maintaining the integrity of the judicial process.

§ 2. Section 837 of the executive law is amended by adding a new subdivision 25 to read as follows:

25. (a) Promulgate a written protocol to standardize and detail for law enforcement agencies that utilize artificial intelligence in the investigation of criminal activity. The protocol shall address the following topics:

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

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(i) AI systems and FRT being used for investigative purposes, including but not limited to data analysis, pattern recognition, facial recognition, and predictive analytics;

(ii) AI systems and FRT used to assist in identifying potential suspects, uncovering evidence, and generating investigative leads;

(iii) requiring law enforcement agencies that utilize AI systems and FRT to implement transparency measures, including maintaining records of AI-generated outputs and the parameters used by the AI system. Such records shall be subject to audit and review by an independent oversight body designated by the department to ensure compliance with the protocol;

(iv) requiring law enforcement agencies that utilize AI systems and FRT to undergo regular independent audits of FRT systems to assess their accuracy and biases. The results of these audits shall be publicly accessible and disclosed in any case where FRT evidence is used; and

(v) requiring law enforcement officers that utilize AI systems and FRT receive thorough training on the limitations and proper use of AI systems and FRT, emphasizing the importance of understanding and mitigating biases and errors.

(b) For the purposes of this subdivision:

(i) "artificial intelligence" or "AI" means a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments, and that uses machine- and human-based inputs to perceive real and virtual environments, abstract such perceptions into models through analysis in an automated manner, and use model inference to formulate options for information or action;

(ii) "AI-generated output" means any information, analysis, or decision produced by an AI system during a criminal investigation, including but not limited to facial recognition, predictive policing models, and other machine learning algorithms; and

(iii) "facial recognition technology" or "FRT" means a technology that analyzes facial features and is capable of identifying or verifying a person from a digital image or a video frame from a video source.

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