

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:

1 Section 1. Legislative intent. Artificial intelligence tools like
2 Cybercheck and facial recognition technologies have been used extensive-
3 ly in criminal investigations across the U.S., including nearly 8,000
4 cases in 40 states. However, their use has raised significant legal
5 challenges due to the lack of transparency in their methodologies and
6 concerns over accuracy and reliability. Defense attorneys have success-
7 fully argued in several cases that AI-generated evidence should be
8 excluded from court proceedings due to these issues. This act aims to
9 address these concerns by prohibiting the use of AI outputs, including
10 facial recognition, as evidence while allowing their use for investi-
11 gative purposes, thereby protecting the rights of defendants and main-
12 taining the integrity of the judicial process.

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

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

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

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1 (i) AI systems and FRT being used for investigative purposes, includ-
2 ing but not limited to data analysis, pattern recognition, facial recog-
3 niton, and predictive analytics;

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

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

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

16 (v) requiring law enforcement officers that utilize AI systems and FRT
17 receive thorough training on the limitations and proper use of AI
18 systems and FRT, emphasizing the importance of understanding and miti-
19 gating biases and errors.

20 (b) For the purposes of this subdivision:

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

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

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

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