

**6SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2023-2024 Regular Session**

SB 896 (Dodd)  
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Fiscal: Yes  
Urgency: No  
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**SUBJECT**

Artificial Intelligence Accountability Act

**DIGEST**

This bill largely codifies Governor Newsom’s executive order on the use of Generative artificial intelligence (GenAI). The bill requires assessments of the beneficial uses, potential harms, and risks to critical infrastructure of GenAI. The bill calls for the development of guidelines for public sector procurement, uses, and required trainings for the use of GenAI. The bill places obligations on state entities with respect to the use of GenAI and automated decisionmaking systems.

**EXECUTIVE SUMMARY**

The transformative power of AI and specifically GenAI is unquestionable and it offers numerous benefits for society, including state government. It can enhance efficiency and effectiveness in various sectors freeing up human resources. AI can improve decision-making processes by analyzing vast amounts of data to identify patterns, trends, and potential insights. This capability enables state governments to make more informed policy decisions, allocate resources more efficiently, and enhance public services. However, as with most technologies, there are also inherent risks and challenges. One major concern is the potential for bias in AI algorithms, which could result in discriminatory outcomes, particularly in areas such as law enforcement, healthcare, and social services. Furthermore, the reliance on AI systems may lead to job displacement, as automation replaces certain roles previously performed by humans. Ensuring transparency, accountability, and fairness in AI systems is crucial to mitigate these risks and maintain public trust. Additionally, there are concerns about data privacy and security, as GenAI systems rely on vast amounts of sensitive information.

This bill largely codifies Governor Newsom’s executive order on GenAI, requiring assessments of the uses, potential harms, and risks of GenAI. The bill calls for the development of guidelines for public sector procurement, uses, and required trainings

for the use of GenAI. The bill places obligations on state entities with respect to the use of GenAI and automated decisionmaking systems (ADS). This bill is author-sponsored. It is supported by Secure Justice. No timely opposition has been received by the Committee. The bill passed out of the Senate Governmental Organization Committee on a vote of 14 to 0.

### **PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Establishes the California Department of Technology (CDT) within the California Government Operations Agency (GovOps), under the supervision of the Director of Technology (Director), also known as the State Chief Information Officer. (Gov. Code Sec. 11545(a).)
- 2) Provides that the duties of the Director include:
  - a. advising the Governor on the strategic management and direction of the state's information technology (IT) resources;
  - b. establishing and enforcing state IT strategic plans, policies, standards, and enterprise architecture, as specified;
  - c. minimizing overlap, redundancy, and cost in state IT operations by promoting the efficient and effective use of information technology;
  - d. providing technology direction to agency and department chief information officers to ensure the integration of statewide technology initiatives, compliance with IT policies and standards, and the promotion of the alignment and effective management of IT services; and
  - e. working to improve organizational maturity and capacity in the effective management of IT; and establishing performance management and improvement processes to ensure state IT systems and services are efficient and effective. (Gov. Code § 11545(b).)
- 3) Expresses the intent of the Legislature that policies and procedures developed by CDT and Department of General Services (DGS) pertaining to the acquisition of IT goods and services provide for all of the following: the expeditious and value-effective acquisition of IT goods and services to satisfy state requirements; the acquisition of IT goods and services within a competitive framework; the delegation of authority by DGS to each state agency that has demonstrated to DGS's satisfaction the ability to conduct value-effective IT goods and services acquisitions; and the review and resolution of protests submitted by any bidders with respect to any IT goods and services acquisitions. (Pub. Con. Code § 12101.)
- 4) Requires CDT, on or before September 1, 2024, to conduct, in coordination with other interagency bodies as it deems appropriate, a comprehensive inventory of all high-risk ADS that have been proposed for use, development, or procurement

by, or are being used, developed, or procured by, any state agency. (Gov. Code § 11546.45.5(b).)

- 5) Requires the comprehensive inventory to include a description of all of the following:
  - a) any decision the ADS can make or support, the intended benefits of that use, and the alternatives to that use;
  - b) the results of any research assessing the efficacy and relative benefits of the uses and alternatives of the ADS described above;
  - c) the categories of data and personal information the ADS uses to make its decisions; and
  - d) the measures in place, if any, to mitigate the risks, including cybersecurity risk and the risk of inaccurate, unfairly discriminatory, or biased decisions, of the ADS, including performance metrics, cybersecurity controls, privacy controls, risk assessments or audits for potential risks, and measures or processes in place to contest an automated decision. (Gov. Code § 11546.45.5(c).)
  
- 6) Requires CDT, on or before January 1, 2025, and annually thereafter, to submit a report, as specified, of the comprehensive inventory to the Assembly Committee on Privacy and Consumer Protection and the Senate Committee on Governmental Organization. This requirement expires on January 1, 2029. (Gov. Code § 11546.45.5(d).)
  
- 7) Defines the following terms:
  - a) “Automated decision system” means a computational process derived from machine learning, statistical modeling, data analytics, or AI that issues simplified output, including a score, classification, or recommendation, that is used to assist or replace human discretionary decisionmaking and materially impacts natural persons. ADS does not include a spam email filter, firewall, antivirus software, identity and access management tools, calculator, database, dataset, or other compilation of data.
  - b) “High-risk automated decision system” means an ADS that is used to assist or replace human discretionary decisions that have a legal or similarly significant effect, including decisions that materially impact access to, or approval for, housing or accommodations, education, employment, credit, health care, and criminal justice.
  - c) “State agency” includes every state office, department, division, bureau, the California State University, the Board of Parole Hearings, and specified boards. It does not include the University of California, the Legislature, the judicial branch, or any board, except as provided. (Gov. Code § 11546.45.5(a).)

This bill:

- 1) Establishes the Artificial Intelligence Accountability Act.
- 2) Defines the relevant terms, including:
  - a) “Artificial intelligence” means an engineered or machine-based system that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs that can influence physical or virtual environments and that may operate with varying levels of autonomy.
  - b) “Automated decision system” means a computational process derived from machine learning, statistical modeling, data analytics, or AI that issues simplified output, including a score, classification, or recommendation, that is used to assist or replace human discretionary decisionmaking and materially impacts natural persons. It does not include a spam email filter, firewall, antivirus software, identity and access management tool, calculator, database, dataset, or other compilation of data.
  - c) “Generative artificial intelligence” means the class of AI models that emulate the structure and characteristics of input data in order to generate derived synthetic content, including images, videos, audio, text, and other digital content.
  - d) “High-risk automated decision system” means an automated decision system that is used to assist or replace human discretionary decisions that have a legal or similarly significant effect, including decisions that materially impact access to, or approval for, housing or accommodations, education, employment, credit, health care, and criminal justice.
- 3) Requires GovOps, the Office of Data and Innovation (ODI), and CDT to produce a State of California Benefits and Risk of Generative Artificial Intelligence Report that includes all of the following:
  - a) An examination of the most significant, potentially beneficial uses for deployment of GenAI tools by the state.
  - b) An explanation of the potential risks of the uses to individuals, communities, and government workers with a focus on high-risk uses, including the use of GenAI to make a consequential decision affecting access to essential goods and services.
  - c) An explanation of risks from bad actors and insufficiently guarded governmental systems, unintended or emergent effects, and potential risks toward democratic and legal processes, public health and safety, and the economy.
- 4) Requires the above entities to update the report, as needed, to respond to significant developments and, as appropriate, consult with academia, industry experts, and organizations that represent state government employees. These

entities are also required to develop, maintain, and periodically evaluate and revise general guidelines for public sector procurement, uses, and required trainings for the use of GenAI, including for high-risk scenarios, and including for consequential decisions affecting access to essential goods and services, as specified. These shall address safety, algorithmic discrimination, data privacy, and notice of when materials are generated by GenAI. Guidelines must also be produced for state agencies and departments to analyze the impact that adopting a GenAI tool may have on vulnerable communities, including criteria to evaluate equitable outcomes in deployment and implementation of high-risk uses.

- 5) Requires GovOPS, ODI, and CDT to consult with a broad range of experts and stakeholders. These processes shall inform updates to the state's project approval, procurement, and contract terms.
- 6) Requires all state agencies and departments, as requested by GovOps or CDT, to conduct and submit an inventory of all current high-risk uses of GenAI within the agency or department to the CDT, which shall administer the inventory, as specified.
- 7) Provides that the Director of the Office of Emergency Services (OES), the California Cybersecurity Integration Center (Cal-CSIC), and the State Threat Assessment Center (STAC) shall, as often as is deemed appropriate by them, perform a joint risk analysis of potential threats posed by the use of GenAI to California's critical energy infrastructure, including those that could lead to mass casualty events and environmental emergencies. They are also required to develop a strategy, in consultation with outside experts, to assess similar potential threats to other critical infrastructure.
- 8) Requires the above analysis to be provided to the Governor and public recommendations are to be made reflecting changes to AI technology, its applications, and risk management, including further actions to guard against potential threats and vulnerabilities.
- 9) Requires state agencies and departments to consider procurement and enterprise use opportunities in which GenAI can improve the efficiency, effectiveness, accessibility, and equity of government operations consistent with the guidelines for public sector GenAI procurement. CDT shall establish and maintain the infrastructure to conduct pilot projects of GenAI projects, including CDT-approved environments to test those pilot projects, as specified. Such pilot projects are required to measure:
  - a) How GenAI can improve Californians' experience with, and access to, government services.

- b) How GenAI can support state employees in the performance of their duties in addition to any domain-specific impacts to be measured by the state agency or department.
- 10) Requires GovOps, ODI, and CDT to engage with the Legislature and relevant stakeholders, including historically vulnerable and marginalized communities and organizations that represent state government employees, in the development and revision of any guidelines, criteria, reports, or training pursuant hereto. These entities, and any other agencies deemed necessary, shall make available trainings for state government worker use of state-approved GenAI tools to achieve equitable outcomes and to identify and mitigate potential output inaccuracies, fabricated text, hallucinations, and biases of GenAI, while enforcing public privacy and applicable state laws and policies, as provided.
- 11) Requires GovOps, in consultation with appropriate state agencies and organizations that represent state government employees, to establish criteria to evaluate the impact of GenAI on the state government workforce and provide guidelines on how state agencies and departments can support state government employees to use these tools effectively and respond to these technological advancements.
- 12) Directs legal counsel for any state agency or department to consider any potential impact of GenAI on regulatory issues under the respective agency's or department's authority and recommend necessary updates, if appropriate, as a result of this evolving technology.
- 13) Requires a state agency or department that utilizes GenAI to directly communicate with a person, either through an online interface or telephonically, to clearly and in a conspicuous manner identify to that person that the person's interaction with the state agency or department is being communicated through AI. They must also provide on the state agency's or department's website clear instructions, or a link to a web page with clear instructions, informing the person how to directly communicate with a person from the state agency or department.
- 14) Requires that an automated decisionmaking system utilized by a state agency or department to be evaluated for risk potential before adoption. A highrisk automated decision system shall receive appropriate consultation, testing, risk identification, and mitigation consistent hereto and shall not be adopted or utilized without prior approval of the director of a state agency or department or that person's designee before being adopted and utilized by a state agency or department. Such a highrisk system shall receive ongoing monitoring and clear organizational oversight.

## COMMENTS

### 1. Frameworks for responsible development and accountability in AI

Owing to recent advances in processing power and the rise of big data, AI's capacity and the scope of its applications have expanded rapidly, impacting how we communicate, interact, entertain ourselves, travel, transact, and consume media. Since the widespread introduction of AI systems such as ChatGPT, the world has been in awe of the powers of GenAI, which is a type of artificial intelligence that can create new content, such as text, images, code, or music, by learning from existing data. GenAI models can produce realistic and novel artifacts that resemble the data they were trained on, but do not copy it. For example, generative AI can write a poem, draw a picture, or compose a song based on a given prompt or theme.

In ways we may not fully comprehend, AI empowers and encumbers us. It has been used to accelerate productivity, achieve efficiencies, liberate us from drudgery, write our college essay, help us understand and enjoy the world, connect with each other, and live longer, fuller lives. It has also been used to constrain personal autonomy, compromise privacy and security, foment social upheaval, exacerbate inequality, spread misinformation, and subvert democracy. For good or ill, its transformative potential seems boundless.

With these recent dramatic advances in the capabilities of AI systems, the need for frameworks for accountability and responsible development have become ever more urgent.

In January of 2017, AI researchers, economists, legal scholars, ethicists, and philosophers met in Asilomar, California to discuss principles for managing the responsible development of AI. The collaboration resulted in the Asilomar Principles. Aspirational rather than prescriptive, these 23 principles were intended to initiate and frame a dialogue by providing direction and guidance for policymakers, researchers, and developers. Its endorsers include 1,200 leading experts in the field of AI, including DeepMind founder Demis Hassabis and the late Stephen Hawking.

The Legislature subsequently adopted ACR 215 (Kiley, Ch. 206, Stats. 2018), which added the State of California to that list by endorsing the Asilomar Principles as guiding values for the development of artificial intelligence and related public policy. In broad strokes, those principles aim to do the following:

- *Research issues:* create beneficial AI; direct funding toward beneficial innovation; maintain constructive and healthy exchanges between AI researchers and policymakers; promote a culture of trust, cooperation, and transparency among researchers and developers of AI; and avoid corner-cutting on safety standards.

- *Ethics and values*: promote safety, failure transparency, judicial transparency, and responsible innovation; align human values with innovation; protect privacy and liberty; ensure that the benefits and prosperity created by AI are broadly shared; maintain human control over AI; develop AI that supports rather than subverts social and civil processes; and avoid an AI arms race.
- *Longer-term issues*: avoid assumptions regarding the capabilities of AI; give AI its due attention; and **recognize that its risks are potentially catastrophic or existential**. [emphasis added]

As directed by the National AI Initiative Act of 2020, NIST developed the AI Risk Management Framework to assist entities designing, developing, deploying, and using AI systems to help manage the many risks of AI and promote trustworthy and responsible development and use of AI systems. That framework highlights the serious risks at play and the uniquely challenging nature of addressing them in this context:

Artificial intelligence (AI) technologies have significant potential to transform society and people's lives – from commerce and health to transportation and cybersecurity to the environment and our planet. AI technologies can drive inclusive economic growth and support scientific advancements that improve the conditions of our world. AI technologies, however, also pose risks that can negatively impact individuals, groups, organizations, communities, society, the environment, and the planet. Like risks for other types of technology, AI risks can emerge in a variety of ways and can be characterized as long- or short-term, high or low-probability, systemic or localized, and high- or low-impact.

While there are myriad standards and best practices to help organizations mitigate the risks of traditional software or information-based systems, the risks posed by AI systems are in many ways unique. AI systems, for example, may be trained on data that can change over time, sometimes significantly and unexpectedly, affecting system functionality and trustworthiness in ways that are hard to understand. AI systems and the contexts in which they are deployed are frequently complex, making it difficult to detect and respond to failures when they occur. AI systems are inherently socio-technical in nature, meaning they are influenced by societal dynamics and human behavior. AI risks – and benefits – can emerge from the interplay of technical aspects combined with societal factors related to how a system is used, its interactions with other AI systems, who operates it, and the social context in which it is deployed.

These risks make AI a uniquely challenging technology to deploy and utilize both for organizations and within society. [. . .]



AI risk management is a key component of responsible development and use of AI systems. Responsible AI practices can help align the decisions about AI system design, development, and uses with intended aim and values. Core concepts in responsible AI emphasize human centricity, social responsibility, and sustainability. AI risk management can drive responsible uses and practices by prompting organizations and their internal teams who design, develop, and deploy AI to think more critically about context and potential or unexpected negative and positive impacts. Understanding and managing the risks of AI systems will help to enhance trustworthiness, and in turn, cultivate public trust.

More recently the Biden Administration has published its Blueprint for an AI Bill of Rights, which is a set of five principles and associated practices to help guide the design, use, and deployment of AI to protect the rights of the American public:

- *Safe and Effective Systems*: You should be protected from unsafe or ineffective systems. Automated systems should be developed with consultation from diverse communities, stakeholders, and domain experts to identify concerns, risks, and potential impacts of the system.
- *Algorithmic Discrimination Protections*: Designers, developers, and deployers of automated systems should take proactive and continuous measures to protect individuals and communities from algorithmic discrimination and to use and design systems in an equitable way. This protection should include proactive equity assessments as part of the system design, use of representative data and protection against proxies for demographic features, ensuring accessibility for people with disabilities in design and development, pre-deployment and ongoing disparity testing and mitigation, and clear organizational oversight.
- *Data Privacy*: You should be protected from abusive data practices via built-in protections and you should have agency over how data about you is used. You should be protected from violations of privacy through design choices that ensure such protections are included by default, including ensuring that data collection conforms to reasonable expectations and that only data strictly necessary for the specific context is collected. Designers, developers, and deployers of automated systems should seek your permission and respect your decisions regarding collection, use, access, transfer, and deletion of your data in appropriate ways and to the greatest extent possible; where not possible, alternative privacy by design safeguards should be used. Systems should not employ user experience and design decisions that obfuscate user choice or burden users with defaults that are privacy invasive. Consent should only be used to justify collection of data in cases where it can be appropriately and meaningfully given. Any consent requests should be brief, be understandable in plain language, and give you agency over data collection and the specific context

of use; current hard-to-understand notice-and-choice practices for broad uses of data should be changed. Enhanced protections and restrictions for data and inferences related to sensitive domains, including health, work, education, criminal justice, and finance, and for data pertaining to youth should put you first. In sensitive domains, your data and related inferences should only be used for necessary functions, and you should be protected by ethical review and use prohibitions. You and your communities should be free from unchecked surveillance; surveillance technologies should be subject to heightened oversight that includes at least pre-deployment assessment of their potential harms and scope limits to protect privacy and civil liberties. Continuous surveillance and monitoring should not be used in education, work, housing, or in other contexts where the use of such surveillance technologies is likely to limit rights, opportunities, or access. Whenever possible, you should have access to reporting that confirms your data decisions have been respected and provides an assessment of the potential impact of surveillance technologies on your rights, opportunities, or access.

- *Notice and Explanation:* You should know that an automated system is being used and understand how and why it contributes to outcomes that impact you. Designers, developers, and deployers of automated systems should provide generally accessible plain language documentation including clear descriptions of the overall system functioning and the role automation plays, notice that such systems are in use, the individual or organization responsible for the system, and explanations of outcomes that are clear, timely, and accessible. Such notice should be kept up-to-date and people impacted by the system should be notified of significant use case or key functionality changes. You should know how and why an outcome impacting you was determined by an automated system, including when the automated system is not the sole input determining the outcome.
- *Human Alternatives, Consideration, and Fallback:* You should be able to opt out from automated systems in favor of a human alternative, where appropriate. Appropriateness should be determined based on reasonable expectations in a given context and with a focus on ensuring broad accessibility and protecting the public from especially harmful impacts.<sup>1</sup>

TechEquity, an organization committed to ensuring technology's evolution benefits everyone equitably, has also laid out their straightforward AI Policy Principles:

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<sup>1</sup> *Blueprint For An AI Bill Of Rights* (October 2022) Office of Science and Technology Policy, <https://www.whitehouse.gov/wp-content/uploads/2022/10/Blueprint-for-an-AI-Bill-of-Rights.pdf>. All internet citations are current as of April 10, 2024.

- People who are impacted by AI must have agency to shape the technology that dictates their access to critical needs like employment, housing, and healthcare.
- The burden of proof must lie with developers, vendors, and deployers to demonstrate that their tools do not create harm – and regulators, as well as private [individuals], should be empowered to hold them accountable.
- Concentrated power and information asymmetries must be addressed in order to effectively regulate the technology.

2. A framework for California: GenAI uses, risks, and benefits

Seeking to establish a framework for California, Governor Gavin Newsom issued Executive Order N-12-23 “to study the development, use, and risks of artificial intelligence (AI) technology throughout the state and to develop a deliberate and responsible process for evaluation and deployment of AI within state government.”<sup>2</sup>

The executive order includes the following provisions:

- **Risk-Analysis Report:** Directs state agencies and departments to perform a joint risk-analysis of potential threats to and vulnerabilities of California’s critical energy infrastructure by the use of GenAI.
- **Procurement Blueprint:** To support a safe, ethical, and responsible innovation ecosystem inside state government, agencies will issue general guidelines for public sector procurement, uses, and required training for application of GenAI – building on the White House’s Blueprint for an AI Bill of Rights and the National Institute for Science and Technology’s AI Risk Management Framework. State agencies and departments will consider procurement and enterprise use opportunities where GenAI can improve the efficiency, effectiveness, accessibility, and equity of government operations.
- **Beneficial Uses of GenAI Report:** Direct state agencies and departments to develop a report examining the most significant and beneficial uses of GenAI in the state. The report will also explain the potential harms and risks for communities, government, and state government workers.
- **Deployment and Analysis Framework:** Develop guidelines for agencies and departments to analyze the impact that adopting GenAI tools may have on vulnerable communities. The state will establish the infrastructure needed to

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<sup>2</sup> Press Release, *Governor Newsom Signs Executive Order to Prepare California for the Progress of Artificial Intelligence* (September 6, 2023) Office of Governor Gavin Newsom, <https://www.gov.ca.gov/2023/09/06/governor-newsom-signs-executive-order-to-prepare-california-for-the-progress-of-artificial-intelligence/>.

conduct pilots of GenAI projects, including CDT approved environments or “sandboxes” to test such projects.

- **State Employee Training:** To support California’s state government workforce and prepare for the next generation of skills needed to thrive in the GenAI economy, agencies will provide trainings for state government workers to use state-approved GenAI to achieve equitable outcomes, and will establish criteria to evaluate the impact of GenAI to the state government workforce.
- **Legislative Engagement:** Engage with legislative partners and key stakeholders, including academic institutions, in a formal process to develop policy recommendations for responsible use of AI, including any guidelines, criteria, reports, and/or training.
- **Evaluate Impacts of AI on an Ongoing Basis:** Periodically evaluate for potential impact of GenAI on regulatory issues under the respective agency, department, or board’s authority and recommend necessary updates as a result of this evolving technology.

This bill establishes the Artificial Intelligence Accountability Act. The bill codifies most of the key provisions of Executive Order N-12-23. According to the author:

The AI Accountability Act ensures state agencies advance safeguards and consumer protections around AI by incorporating and building upon recent directives from President Joe Biden and Governor Gavin Newsom. SB 896 encourages continued innovation while ensuring that the rights and opportunities of all Californians are protected. When used ethically and transparently, AI has the potential to dramatically improve service delivery outcomes and increase access to and utilization of government programs. However, just as humans have explicit and implicit biases, AI has the capacity to act as a mirror by reflecting and amplifying these biases. SB 896 builds on previous federal and state executive orders by guiding the decision-making of state agencies, departments, and subdivisions in the review, adoption, management, governance, and regulation of automated decision-making systems and generative AI.

Specifically, this bill requires GovOps, CDT, and ODI to produce a State of California Benefits and Risk of Generative Artificial Intelligence Report to include an examination of the most significant, potentially beneficial uses for deployment of GenAI tools by the state and an explanation of the potential risks of the uses and the risks from bad actors and insufficiently guarding governmental systems.

The bill directs OES, Cal-CSIC, and STAC to perform a joint risk analysis of potential threats posed by the use of GenAI to California’s critical energy infrastructure,

including those that could lead to mass casualty events and environmental emergencies. The bill calls for the development of guidelines for public sector procurement, uses, and required trainings for the use of GenAI. This includes an assessment of the impact on vulnerable communities. The bill calls for the development of pilot projects, something already underway in response to the Governor's executive order. Additionally, this bill requires state agencies and departments to support the state government workforce and prepare for the next generation of skills needed to thrive in the GenAI economy.

Following principles laid out in the previous section, including the White House's Blueprint, the bill requires any state agency or department that utilizes GenAI to directly communicate with a person, either through an online interface or telephonically, to clearly and in a conspicuous manner identify to that person that the person's interaction with the state is being communicated through AI. Any state entity that utilizes such a technology must provide on that entity's internet website clear instructions informing the person how to directly communicate with a person from the state agency or department. This ensures Californians are on notice of when GenAI is in use and are provided a human alternative.

The bill also places obligations on state entities with respect to the use of GenAI and automated decisionmaking systems (ADS). ADS are algorithm-driven applications that can assist or supplant human decisionmaking processes in areas such as credit decisions, employment screening, insurance eligibility, and the delivery of government services. ADS process enormous datasets and make decisions with speed and reliability that vastly exceed human capabilities. However, poorly designed or poorly understood systems can create unfair, biased, and inaccurate results. When deployed by government agencies, flawed ADS may disproportionately harm low-income families and communities of color and undermine trust in the public sector. Moreover, norms of participatory governance and due process may be jeopardized when ADS affects agency policymaking, adjudications, or enforcement.

Last year, AB 302 (Ward, Ch. 800, Stats. 2023) required CDT, on or before September 1, 2024, to conduct a comprehensive inventory of all high-risk ADS that have been proposed for use, development, or procurement by, or are being used, developed, or procured by, any state agency. This bill requires that ADS utilized by a state agency or department be evaluated for risk potential before adoption. High-risk ADS must receive appropriate consultation, testing, risk identification, and mitigation and shall not be adopted or utilized without prior approval of the director of a state agency or department or that person's designee before being adopted and utilized by a state agency or department. "High-risk ADS" is defined as ADS that is used to assist or replace human discretionary decisions that have a legal or similarly significant effect, including decisions that materially impact access to, or approval for, housing or accommodations, education, employment, credit, health care, and criminal justice. A

high-risk ADS that is utilized by a state agency or department is required to receive ongoing monitoring and clear organizational oversight.

### 3. Stakeholder positions

Writing in support, Secure Justice states: “In this era of disinformation and distrust in our civic institutions, we believe such efforts like SB 896 will at minimum mitigate, if not outright eliminate, many of the known concerns arising from the use of AI.”

### SUPPORT

Secure Justice

### OPPOSITION

None received

### RELATED LEGISLATION

#### Pending Legislation:

SB 892 (Padilla, 2024) directs CDT to establish an AI risk management standard, modeled after mainstream, widely accepted publications, to guide the procurement, use, and oversight of ADS in government agencies. Agencies are required to include specific clauses in contracts for the procurement of ADS after CDT promulgates attendant regulations. SB 892 is currently in this Committee.

SB 893 (Padilla, 2024) requires GovOps, the Governor’s Office of Business and Economic Development, and CDT to collaborate to establish the California Artificial Intelligence Research Hub in GovOps, as prescribed. SB 893 requires the hub to serve as a centralized entity to facilitate collaboration between government agencies, academic institutions, and private sector partners to advance AI research and development that seeks to harness the technology’s full potential for public benefit while safeguarding privacy, advancing security, and addressing risks and potential harms to society, as prescribed. SB 893 is currently in this Committee.

SB 942 (Becker, 2024) establishes the California AI Transparency Act, which, among other things, requires a covered provider, as defined, to create an AI detection tool by which a person can query the covered provider as to the extent to which text, image, video, audio, or multimedia content was created, in whole or in part, by a generative AI system, as defined, provided by the covered provider that meets certain criteria. Covered providers are required to include in AI-generated content a visible disclosure that, among other things, includes a clear and conspicuous notice that identifies the content as generated by AI. SB 942 requires a covered provider to register with CDT

and provide them a URL to any AI detection tool it has created. SB 942 is currently in this Committee.

SCR 17 (Dodd, 2023) affirms the California Legislature's commitment to President Biden's vision for a safe AI and the principles outlined in the "Blueprint for an AI Bill of Rights" and expresses the Legislature's commitment to examining and implementing those principles in its legislation and policies related to the use and deployment of automated systems. SCR 17 is currently in the Assembly Privacy and Consumer Protection Committee.

AB 331 (Bauer-Kahan, 2023) prohibits "algorithmic discrimination," that is, use of an automated decision tool to contribute to unjustified differential treatment or outcomes that may have a significant effect on a person's life. It requires any deployer of an automated decision tool to perform an impact assessment for those tools and to notify any natural person that is the subject of the consequential decision that an automated decision tool is being used to make, or be a controlling factor in making, the consequential decision. AB 331 was held in the Senate Appropriations Committee.

AB 2013 (Irwin, 2024) requires, on or before January 1, 2026, a developer, as defined, of an AI system or service to post on the developer's website documentation regarding the data used to train the AI system or service, as specified. AB 2013 is currently in the Assembly Privacy and Consumer Protection Committee.

AB 2930 (Bauer-Kahan, 2024) requires, among other things, a deployer and a developer of an automated decision tool to, on or before January 1, 2026, and annually thereafter, perform an impact assessment for any automated decision tool the deployer uses that includes, among other things, a statement of the purpose of the automated decision tool and its intended benefits, uses, and deployment contexts. The assessments must be provided to the Civil Rights Department within 7 days of a request. AB 2930 requires a deployer to, at or before the time an automated decision tool is used to make a consequential decision, notify any natural person that is the subject of the consequential decision that an automated decision tool is being used to make, or be a controlling factor in making, the consequential decision and to provide that person with, among other things, a statement of the purpose of the automated decision tool. AB 2930 is currently in the Assembly Privacy and Consumer Protection Committee.

#### Prior Legislation:

AB 302 (Ward, Ch. 800, Stats. 2023) *See* Comment 2.

AB 13 (Chau, 2021) would have established the Automated Decision Systems Accountability Act, which, in the context of the State's procurement policies, would have promoted oversight over ADS that pose a high risk of adverse impacts on

individual rights. The bill was eventually gutted and amended to address a different topic.

SB 444 (Umberg, 2019) would have requested the Regents of the University of California (UC) to enact a resolution authorizing the law schools at UC Berkeley and UC Irvine to participate in a pilot project to develop AI or machine-learning solutions to address access to justice issues faced by self-representing litigants in their respective courts. The bill died in the Assembly Higher Education Committee.

AB 1576 (Calderon, 2019) would have required the Secretary GovOps to appoint participants to an AI working group to evaluate the uses, risks, benefits, and legal implications associated with the development and deployment of AI by California-based businesses. The bill was held on the Senate Appropriations Committee suspense file.

SJR 6 (Chang, Res. Ch. 112, Stats. 2019) urged the President and the Congress of the United States to develop a comprehensive AI Advisory Committee and to adopt a comprehensive AI policy.

ACR 215 (Kiley, Resolution Ch. 206, Stats. 2018) *See* Comment 1.

**PRIOR VOTES:**

Senate Governmental Organization Committee (Ayes 14, Noes 0)

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