SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 420 (Padilla)
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CK

SUBJECT

Automated decision systems

DIGEST

This bill regulates the use of "high-risk automated decision systems (ADS)." This includes requirements on developers and deployers to perform impact assessments on their systems. The bill establishes the right of individuals to know when an ADS has been used, details about the systems, and an opportunity to appeal ADS decisions, where technically feasible.

EXECUTIVE SUMMARY

ADS powered by AI are being increasingly deployed in a multitude of contexts, including employment, housing, education, and health care. Major transparency and fairness concerns have been raised about the use of ADS to make consequential decisions, essentially determinations with significant legal or other material effect on people's lives. This bill seeks to regulate the development and deployment, by both public and private actors, of "high-risk ADS" by requiring an impact assessment to evaluate their purpose, use of data, potential for bias, and the steps taken to address those risks. The bill requires that individuals that are subject to ADS know when the tool is being used to make decisions about them, details about the ADS, and, where technically feasible, the opportunity to appeal such decisions for review by a natural person. Developers and deployers of high-risk ADS are required to establish governance programs that contain reasonable administrative and technical safeguards to govern reasonably foreseeable risks of "algorithmic discrimination." Oversight authority is provided to the Attorney General (AG) and Civil Rights Department (CRD), who are authorized to bring civil actions against those in violation after an opportunity to cure the violation and to seek modest civil penalties subject to a broad right to cure.

The bill is author-sponsored. It is supported by the Church State Council. It is opposed by industry groups, including the California Chamber of Commerce. Should this bill make it out of this Committee, it will next be heard in the Senate Governmental Organization Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

1) Establishes the California Consumer Privacy Act (CCPA), which grants consumers certain rights with regard to their personal information, including enhanced notice, access, and disclosure; the right to deletion; the right to restrict the sale of information; and protection from discrimination for exercising these rights. It places attendant obligations on businesses to respect those rights. (Civ. Code § 1798.100 et seq.)

2) Establishes the Consumer Privacy Rights Act (CPRA), which amends the CCPA and creates the California Privacy Protection Agency (PPA), which is charged with implementing these privacy laws, promulgating regulations, and carrying out enforcement actions. (Civ. Code § 1798.100 et seq.; Proposition 24 (2020).)

3) Requires the PPA to adopt regulations governing access and opt-out rights with respect to businesses' use of automated decisionmaking technology, including profiling and requiring businesses' response to access requests to include meaningful information about the logic involved in those decisionmaking processes, as well as a description of the likely outcome of the process with respect to the consumer. (Civ. Code § 1798.185(a)(15), (d).)

4) Establishes CRD, and sets forth its statutory functions, duties, and powers. (Gov. Code § 12930.)

5) Establishes the Fair Employment and Housing Act ("FEHA"). (Gov. Code § 12900 et seq.)

6) Establishes the Unruh Civil Rights Act ("Unruh"). (Civ. Code § 51.)

7) Defines "trade secret" under the Uniform Trade Secrets Act as information, including a formula, pattern, compilation, program, device, method, technique, or process, that both:
    a) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and
    b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. (Civ. Code § 3426.1(d).)

8) Requires the California Department of Technology (CDT) 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. It defines the relevant terms:

a) "Automated decision system" means a computational process derived from machine learning, statistical modeling, data analytics, or artificial intelligence 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. "Automated decision system" 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. (Gov. Code § 11546.45.5.)

This bill:

1) Defines the relevant terms, including:
    a) "Automated decision system" means a computational process derived from machine learning, statistical modeling, data analytics, or artificial intelligence 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.
    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, except as provided, including decisions that materially impact access to, or approval for, any of the following:
        i. Education enrollment or opportunity.
        ii. Employment or employment opportunity.
        iii. Essential utilities.
        iv. Temporary, short-term, or long-term housing.
        v. Health care services.
        vi. Lending services.
        vii. A legal right or service.
        viii. An essential government service.
    c) "Deployer" means a natural person or entity that uses a high-risk automated decision system in the state.
    d) "Developer" means a natural person or entity that designs, codes, produces, or substantially modifies a high-risk ADS for use in the state.
    e) "Algorithmic discrimination" means the condition in which an ADS contributes to unlawful discrimination on the basis of a protected classification.

2) Requires a "developer" of a high-risk ADS made publicly available for use on or after January 1, 2026 to perform an impact assessment on it before making it

publicly available for use. If made publicly available for use before then, the developer must perform the impact assessment if the developer makes a substantial modification to the high-risk ADS.

3) Requires a "deployer" of a high-risk ADS first deployed after January 1, 2026 to perform an impact assessment on it within two years of deployment.

4) Provides, notwithstanding the above, that a state agency deployer may opt out of performing the impact assessment if the state agency uses the ADS only for its intended use as determined by the developer and all of the following requirements are met:
    a) The state agency does not make a substantial modification to the ADS.
    b) The state agency carries out the governance program required hereby.
    c) The developer of the system is in compliance with specified parts of this bill relating to performance of impact assessments and public contracting.
    d) The state agency does not have a reasonable basis to believe that deployment of the high-risk ADS as intended by the developer is likely to result in algorithmic discrimination.

5) Provides that a state agency must require a developer of a high-risk ADS deployed by the state agency to provide a copy of the required impact assessment, which shall be kept confidential.

6) Requires a developer to make available to deployers and potential deployers the statements included in the developer's impact assessment, which must include all of the following:
    a) A statement of the purpose of the high-risk ADS and its intended benefits, uses, and deployment contexts.
    b) A description of the ADS's intended outputs.
    c) A summary of the types of data intended to be used as inputs to the ADS and any processing of those data inputs recommended to ensure the intended functioning of the ADS.
    d) A summary of reasonably foreseeable potential disproportionate or unjustified impacts on a protected classification from the intended use by deployers of the ADS.
    e) For developers, a description of safeguards implemented or other measures taken by the developer to mitigate and guard against risks known to the developer of algorithmic discrimination arising from the use of the ADS.
    f) For developers, a description of how the ADS can be monitored by a deployer for risks of algorithmic discrimination known to the developer.
    g) A statement of the extent to which the deployer's use of the ADS is consistent with, or varies from, the developer's statement of the ADS's purpose and intended benefits, intended uses, and intended deployment contexts.

   h) A description of safeguards implemented or other measures taken to mitigate and guard against any known risks to the deployer of discrimination arising from the ADS.
   i) A description of how the ADS has been, and will be, monitored and evaluated.

7) Requires a deployer to make available on its website a statement summarizing all of the following:
   a) The types of high-risk ADS it currently deploys.
   b) How the deployer manages known or reasonably foreseeable risks of algorithmic discrimination arising from the deployment of those ADS.
   c) The nature and source of the information collected and used by the ADS deployed by the deployer.
8) Requires a deployer that uses a high-risk ADS to make a decision regarding a natural person to notify them of that fact and disclose all of the following:
   a) The purpose of the high-risk ADS and the specific decision it was used to make.
   b) How the ADS was used to make the decision.
   c) The type of data used by the ADS.
   d) Contact information for the deployer.
   e) A link to the statement required above.

9) Requires a deployer to provide, as technically feasible, a natural person that is the subject of a decision made by a high-risk ADS an opportunity to appeal that decision for review by a natural person.

10) Requires a developer or a deployer to establish, document, implement, and maintain a governance program that contains reasonable administrative and technical safeguards to govern the reasonably foreseeable risks of algorithmic discrimination associated with the use, or intended use, of a high-risk automated decision system. The program must be appropriately designed with respect to all of the following:
   a) The use, or intended use, of the ADS.
   b) The size, complexity, and resources of the deployer or developer.
   c) The nature, context, and scope of the activities of the deployer or developer in connection with the ADS.
   d) The technical feasibility and cost of available tools, assessments, and other means used by a deployer or developer to map, measure, manage, and govern the risks associated with an ADS.

11) Provides that a developer or deployer is not required to disclose information pursuant hereto if the disclosure would result in the waiver of a legal privilege or the disclosure of a trade secret, as defined in Section 3426.1 of the Civil Code.

12) Prohibits a deployer or developer from deploying or making available for deployment a high-risk ADS if the impact assessment performed pursuant hereto determines that the high-risk ADS is likely to result in algorithmic discrimination. However, such deployment is permitted if the deployer or developer implements safeguards to mitigate the known risks of algorithmic discrimination. In such a case, a deployer or developer acting under this exception must perform an updated impact assessment to verify that the algorithmic discrimination has been mitigated and is not reasonably likely to occur.

13) Requires a developer to provide to the AG or CRD, within 30 days of a request, a copy of an impact assessment performed pursuant hereto, which shall be kept confidential.

14) Authorizes the AG or CRD to bring a civil action against a deployer or developer for violations to obtain any of the following relief:
    a) If a developer or deployer fails to conduct an impact assessment as required, a civil penalty of $2,500 for a defendant with fewer than 100 employees, $5,000 if the defendant has fewer than 500 employees, and $10,000 if the defendant has at least 500 employees.
    b) If a violation is intentional, the civil penalty increases $500 for each day that the defendant is noncompliant.
    c) Injunctive relief.
    d) Reasonable attorney's fees and costs.
    e) If the violation concerns algorithmic discrimination, a civil penalty of $25,000 per violation.

15) Requires the AG or CRD, before commencing an action, to provide 45 days' written notice to a deployer or developer of any alleged violation. The developer or deployer may cure the noticed violation, within 45 days of the notice, and provide an express written statement, made under penalty of perjury, that the violation has been cured. If the violation is cured and the statement is provided, an action shall not be maintained for the noticed violation.

16) Exempts entities with 50 or fewer employees and ADS that have been approved, certified, or cleared by a federal agency that complies with another law that is substantially the same or more stringent than this bill.

17) Prohibits a state agency from awarding a contract for a high-risk ADS to a person who has violated Unruh, FEHA, or the above provisions.

COMMENTS

1. Considerations for development and deployment of ADS

With recent dramatic advances in the capabilities of AI systems, the need for regulatory frameworks for accountability and responsible development and deployment have become ever more urgent. This is especially true with respect to AI-powered ADS that are used to make, or assist in making, decisions that have a legal or other significant effect.

ADS introduce several concerning issues when deployed across various sectors. Bias and discrimination represent perhaps the most significant problem, as AI systems frequently reflect and amplify historical biases present in their training data. This can lead to unfair outcomes based on protected characteristics like race, gender, and socioeconomic status, particularly in sensitive domains such as hiring, lending, housing allocation, and criminal justice.

The lack of transparency in many AI systems compounds these concerns. These technologies often function as "black boxes" where the rationale behind specific decisions remains obscure even to their developers. This opacity makes it exceptionally difficult for affected individuals to understand why they were denied a loan, passed over for a job opportunity, or received an unfavorable outcome. Such obscurity directly challenges meaningful accountability when harmful outcomes inevitably occur.

Accuracy and reliability issues also persist even in sophisticated AI systems. These technologies can make confident but incorrect predictions, with errors often disproportionately affecting already marginalized groups. Performance demonstrated in controlled testing environments frequently fails to translate to complex real-world scenarios, leading to unexpected and harmful outcomes.

Accountability gaps emerge when determining responsibility for AI-caused harms. The complex relationship between developers, deployers, and users makes liability difficult to establish. Legal frameworks consistently lag behind rapidly advancing technological capabilities, creating environments where harms can occur without clear recourse.

By reducing complex human situations to algorithmic outputs, ADS risk eliminating human judgment, empathy, and contextual understanding from important processes. Many people report feeling powerless when facing decisions made by automated systems, especially when those systems lack transparency or meaningful appeal mechanisms

For instance, Amazon's deployment of ADS for hiring purposes provides an example of how bias can be built into these systems:

> Amazon.com Inc's machine-learning specialists uncovered a big problem: their new recruiting engine did not like women.
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> The team had been building computer programs since 2014 to review job applicants' resumes with the aim of mechanizing the search for top talent, five people familiar with the effort told Reuters.
>
> Automation has been key to Amazon's e-commerce dominance, be it inside warehouses or driving pricing decisions. The company's experimental hiring tool used artificial intelligence to give job candidates scores ranging from one to five stars - much like shoppers rate products on Amazon, some of the people said.
>
> "Everyone wanted this holy grail," one of the people said. "They literally wanted it to be an engine where I'm going to give you 100 resumes, it will spit out the top five, and we'll hire those."
>
> But by 2015, the company realized its new system was not rating candidates for software developer jobs and other technical posts in a gender-neutral way.
>
> That is because Amazon's computer models were trained to vet applicants by observing patterns in resumes submitted to the company over a 10-year period. Most came from men, a reflection of male dominance across the tech industry.[1]

An additional example involved a discrimination charge by the Department of Housing and Urban Development against Meta, which emphasized the importance of knowing which characteristics are being considered by an ADS.[2] The settled claims involved Meta targeting users with "housing ads based on algorithms that relied partly on characteristics protected under the Fair Housing Act, like race, national origin and sex." The charges also alleged that "Meta's lookalike or special ad audience tool allowed advertisers to target users based on protected traits."

In response to growing concerns about the increased deployment of ever-advanced ADS, the Biden Administration published a *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:

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[1] Jeffrey Dastin, *Insight - Amazon scraps secret AI recruiting tool that showed bias against women* (October 10, 2018) Reuters, https://www.reuters.com/article/us-amazon-com-jobs-automation-insight/amazon-scraps-secret-ai-recruiting-tool-that-showed-bias-against-women-idUSKCN1MK08G/. All internet citations are current as of March 30, 2025.

[2] Lauren Feiner, *DOJ settles lawsuit with Facebook over allegedly discriminatory housing advertising* (June 21, 2022) CNBC, https://www.cnbc.com/2022/06/21/doj-settles-with-facebook-over-allegedly-discriminatory-housing-ads.html.

- *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.
  . . .
- *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.[3]

2. <u>Ensuring accountability and transparency in ADS development and deployment</u>

This bill seeks to implement some of the principles laid out in the blueprint discussed above in an effort to regulate "high-risk ADS," defined to mean 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, specified goods, services, and opportunities. This includes educational and employment opportunities, housing, health care, as well as lending, legal, and government services.

[3] *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.

However, the bill has several carve outs. A high-risk ADS does not include an ADS that only performs narrow procedural tasks, enhances human activities, detects patterns without influencing decisions, or assists in preparatory tasks for assessment. Although some of these are borrowed from laws in other jurisdictions, the author may wish to consider providing more clarity to avoid unnecessary litigation over their scope and to prevent them from being used as loopholes.

The bill also specifically exempts entities with 50 or fewer employees and exempts high-risk ADS that have been approved, certified, or cleared by a federal agency that complies with another law that is substantially the same or more stringent than this one.

According to the author:

> California has a proud heritage as a home for technological vision and innovation while maintaining ethical, safe standards and the development of AI must be no exception. However, federal mismanagement has left the public vulnerable to the dangers AI poses. California must step in to provide common sense consumer protections while still fostering innovation. We do not have to choose between innovation or consumer protections, we can have both. By focusing on technology that has the potential to impact Californians – high risk automated decision systems – California can put forth a common sense regulation while protecting California values. At the same time, by developing a regulatory framework in the private sector and tying this to California's procurement process – we can ensure companies comply with the regulations set forth and protect Californians who are seeking access to the benefits provided by their government.

a) *Impact assessments*

In order to ensure some measure of transparency with respect to ADS, the bill requires developers and deployers, including state agencies, to conduct impact assessments, laying out the details of the tool and an analysis of the risk of "algorithmic discrimination." "Algorithmic discrimination" means the condition in which an ADS contributes to unlawful discrimination on the basis of a protected classification. Impact assessments must include the following elements:

- A statement of the purpose of the high-risk ADS and its intended benefits, uses, and deployment contexts.
- A description of the ADS's intended outputs.
- A summary of the types of data intended to be used as inputs to the ADS and any processing of those data inputs recommended to ensure the intended functioning of the ADS.
- A summary of reasonably foreseeable potential disproportionate or unjustified impacts on a protected classification from the intended use by deployers of the ADS.

- A description of how the ADS has been, and will be, monitored and evaluated.

Although the current language is not clear, the deployer's impact statement must include a statement of the extent to which the deployer's use of the ADS is consistent with, or varies from, the developer's statement of the ADS's purpose and intended benefits, intended uses, and intended deployment contexts. The author has agreed to an amendment that makes this clear.

In addition, the bill requires that there must be a description of safeguards implemented or other measures taken to mitigate and guard against any known risks *to the deployer* of discrimination arising from the ADS. The author has agreed to take amendments that apply this to both a deployer and developer given its importance to avoiding algorithmic discrimination.

Similarly, a developer's impact assessment must also include a description of safeguards implemented or other measures taken by the developer to mitigate and guard against risks known to the developer of algorithmic discrimination arising from the use of the ADS and a description of how the ADS can be monitored by a deployer for risks of algorithmic discrimination known to the developer.

Developers of high-risk ADS must perform an impact assessment on it before making it publicly available for use. However, if they have already made the system publicly available for use before the effective date of this legislation, they are only required to perform an assessment if the developer makes a substantial modification to the high-risk ADS. A developer is required to make available to deployers and potential deployers the statements included in the developer's impact assessment.

Deployers are also required to perform an impact assessment of any high-risk ADS first deployed after the effective date, but they have two years from first deployment to undertake the assessment. The author may wish to consider whether this timeline should be expedited to ensure harmful ADS are not being used in these critical contexts in the shorter term. There is no requirement for deployers to assess a high-risk ADS that they have already started deploying.

If the impact assessment determines that the ADS is likely to result in algorithmic discrimination, the deployer or developer shall not deploy or make available for deployment the ADS. However, even where an assessment determines that an ADS **will** result in algorithmic discrimination, it may still be deployed or made available for deployment if the deployer or developer implements safeguards to mitigate the known risks of algorithmic discrimination. A deployer or developer acting under this exception must perform an updated impact assessment to verify that the algorithmic discrimination has been mitigated and is not reasonably likely to occur.

The bill further allows a state agency deployer to opt out of performing the impact assessment if the state agency uses the ADS only for its intended use as determined by the developer and all of the following requirements are met:

- The state agency does not make a substantial modification to the ADS.
- The state agency carries out the governance program required.
- The developer of the system is in compliance with specified parts of this bill relating to performance of impact assessments and public contracting.
- The state agency does not have a reasonable basis to believe that deployment of the high-risk ADS as intended by the developer is likely to result in algorithmic discrimination.

The bill provides that the state agency must, however, obtain a copy of the developer's impact assessment. The impact assessment is required to be kept confidential by the state agency even where the assessment does not include trade secrets.

To ensure state agencies are not contracting with persons or entities who have engaged in misconduct, the bill prohibits state agencies from awarding a high-risk ADS contract to a person who has violated this or other civil rights laws, including Unruh and FEHA. This provides a strong incentive for companies to abide by California's civil rights laws.

Based on the above, the bill allows all existing ADS to go without an assessment by either their developers or deployers if there is no substantial modification. As this would allow potentially problematic ADS to go without crucial impact assessments, the author has agreed to amendments that require ADS released before January 1, 2026, to have an impact assessment within two years of the bill becoming law even if no substantial modification is made.

The bill also provides a carve out for trade secrets. A developer or deployer is not required to disclose information under this chapter if the disclosure of that information would result in the waiver of a legal privilege or the disclosure of a trade secret, as defined in Section 3426.1 of the Civil Code. The author has agreed to amendments that align this with relevant discovery laws, that will require the developer or deployer to notify the person or entity from whom it is withholding information that it is exercising this right and the basis for doing so.

For public transparency, a deployer is required to make available on its website a statement summarizing the types of high-risk ADS it deploys; how the deployer manages known or reasonably foreseeable risks of algorithmic discrimination; and the nature and source of the information collected and used by the ADS it deploys.

A deployer or developer must also establish, document, implement, and maintain a governance program that contains reasonable administrative and technical safeguards to govern the reasonably foreseeable risks of algorithmic discrimination associated with the use, or intended use, of its high-risk ADS. The program is required to "be appropriately designed" with respect to specified factors, such as the size and

complexity of the deployer or developer and the use or intended use of the ADS. However, there is little in the way of detail about what needs to be included in the governance program. The author has agreed to amendments that further refine what constitutes a sufficient governance program. Governance programs will be required to be aligned with existing standards and frameworks including the NIST AI Risk Management Framework. Amendments will require the program to specify and incorporate the principles, processes and personnel used to identify, document and mitigate foreseeable risks of algorithmic discrimination, ensure it is regularly reviewed and updated, and include a structured framework for documenting, investigating, and resolving incidents.

b) Notice, disclosures, and the right to opt out for individuals subjected to ADTs

The Blueprint for an AI Bill of Rights provides:

- *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.

This bill effectuates some of these principles by requiring a deployer that uses a high-risk ADS to make a decision about a person to notify the person of that fact. The deployer must further disclose the purpose of the high-risk ADS, the specific decision it was used to make, and how it was used to make it. The disclosure must also identify the type of data used by the ADS. The deployer must share their contact information and a link to the required statement discussed above.

A deployer is required to provide the opportunity for a person to appeal the decision, "as technically feasible." However, the bill does not require deployers to offer the ability to opt out of the ADS usage or to correct information used, and the notification does not need to happen until after the decision has already been made.

c) Enforcement

The PPA is the primary regulatory and enforcement entity for implementing the CCPA and CPRA. The PPA is currently in the process of drafting regulations to govern the use of automated decisionmaking technology by CCPA-covered businesses.

This bill requires deployers and developers to provide the AG or CRD with any impact assessment performed within 30 days of a request, which again are to be kept confidential. The AG and CRD are authorized to bring a civil action against a developer or deployer in violation seeking civil penalties as well as injunctive relief and fees and costs.

The modest civil penalties are tiered based on the size of the deployer or developer and the nature of the violation. For instance, if the largest of the developers fails to conduct an impact assessment at all, they are liable for a $10,000 civil penalty. If that violation is intentional, an extra $500 is tacked on every day the developer is noncompliant. If the violation concerns algorithmic discrimination, a civil penalty of $25,000 is awarded.

However, before initiating such actions, the AG or CRD must provide the developer or deployer in alleged violation with 45-days written notice and an opportunity to cure. If the violation is cured and a written notice attesting to such cure is provided, no claim may be maintained, even if the violation was intentional or the developer or deployer has been found in violation previously. Given enforcement is limited to two public prosecutors, the author may wish to consider whether a right to cure is appropriate. Providing this window to essentially cure even flagrant violations of the law provides a perverse incentive to not follow the law until notified by the AG or CRD.

3. Other attempts at regulating ADS

A number of jurisdictions have stepped forward to respond to the dramatic increase in ADS usage. For instance, the European Union AI Act provides guardrails for what it deems "high-risk AI systems" to ensure transparency and fairness. Here in the United States, a number of states have introduced legislation in this space, including New York and Connecticut. However, the first comprehensive state-level regulation has come in Colorado.

The Colorado law, approved by their Governor on May 17, 2024, places requirements on developers and deployers to use reasonable care to protect consumers from the risks of algorithmic discrimination. A variety of provisions of the Colorado law are found in this bill.

On February 20, 2025, the Virginia Legislature passed the High-Risk Artificial Intelligence Developer and Deployer Act (Virginia AI Act), a comprehensive artificial intelligence bill focused on preventing algorithmic discrimination. However, on March 24, 2025, Virginia Governor Glenn Youngkin vetoed it.

In addition, AB 1018 (Bauer-Kahan, 2025) seeks to also regulate the development and deployment of ADS used to make consequential decisions, as defined. It is a follow up measure to AB 2930 (Bauer-Kahan, 2024), which died on the Senate Floor.

AB 1018 uses the same definition of ADS as in this bill. It requires a developer of a covered ADS to take certain actions, including conduct performance evaluations of the ADS, submit to third-party audits, and provide deployers to whom the developer transfers the covered ADS with certain information, including the results of those performance evaluations. It requires a deployer of a covered ADS to take certain actions, including provide certain disclosures to a subject of a consequential decision made or facilitated by the covered ADS, provide the subject an opportunity to opt out of the use of the covered ADS, provide the subject with an opportunity to correct erroneous personal information used by the ADS, and to appeal the outcome of the consequential decision, and submit the covered ADS to third-party audits, as prescribed.

AB 1018 requires a developer, deployer, or auditor to, within 30 days of receiving a request from the AG, provide an unredacted copy of the performance evaluation or disparate impact assessment prepared pursuant to the bill to the AG. It authorizes the AG, CRD, district attorneys, county counsel, city attorneys, and the Labor Commissioner, as provided, to bring enforcement actions seeking, among other relief, civil penalties of up to $25,000 for each violation.

SB 7 (McNerney, 2025) also regulates the use of ADS in the employment context, providing a minimum of 30 days notice to workers before deployment as well as post-deployment rights to notice, to correct information, and to appeal. It also restricts certain uses of ADS in the employment context.

All of these bills, including this one, have harmonized definitions for what an ADS is, based off of the definition in existing law that makes clear that an ADS is one that is used to "assist or replace human discretionary decisionmaking and materially impacts natural persons."

4. Stakeholder positions

A coalition of industry groups, including Technet, write in opposition:

> As introduced, SB 420 goes beyond ensuring developers and deployers of these technologies act responsibly to adhere to existing anti-discrimination protections and veers into an indirect restriction upon the usage of the technology itself, discouraging technological innovation and usage by making it so onerous and risky that businesses are realistically pushed back toward the alternative, human driven process – which we know based on historical evidence will not help eliminate bias and discrimination in any way.

> Lastly, we ask that you reconsider the prohibition on awarding contracts to a person who has ever violated specified state laws. It's possible that a business had made a mistake that led to a violation in their past and has an impeccable record for decades. They should not be continually punished for a prior mistake if they have paid for it and made the plaintiff whole under the legal system already.

The Church State Council writes in support:

> The Church State Council supports legislation that helps to bring about equality and freedom. All Americans are entitled to the fundamental rights of conscience, religious freedom and the pursuit of happiness.
>
> We support SB 420 in its aims to safeguard individuals' rights and privacy against the misuse and abuse of artificial intelligence used in automated decision-making systems.

Concerns have also been raised by stakeholders. SEIU writes:

> SEIU represents over 700,000 members in the private and public sector, from our custodial workers to our public servants there is no field of work where this technology has not been utilized. As such, we have flagged concerns with past legislation that proposed similar governance, notice, and oversight. The role of automated decision systems and artificial intelligence in our daily lives has grown exponentially, both in the public and private sector. Our members have utilized a number of forms of this technology to help expedite their workload and better serve Californians, however this growth is not without concern.
>
> The major areas of concern we have with the bill include:
> - Exemptions and enforcement mechanisms could undermine many of the goals of the bill.
> - Definitions are narrowed in a manner that will inadvertently exempt many uses of these tools in high-risk use cases;
> - Notice provisions lack adequate information and meaningful rights;
> - Potential for a two-tiered standard for discrimination.
>
> We share the author's belief that California has a role to play in ensuring these systems are not detrimental to Californians. SB 420 as drafted, does not provide necessary transparency measures, the current definitions would allow companies to side-step the critical accountability mechanisms this bill creates, and that consumers and workers would not receive sufficient notice or explanation of how these tools impacted

> important decisions in their lives. Furthermore, the right to cure and broad trade secret exemption will likely render many of the protections the author is trying to establish difficult to make use of in practice.

TechEquity also writes in with a series of concerns about the provisions of the bill, including a focus on the scope of the definitions:

> Within SB 420 the definition of high-risk automated decision making system has been narrowed to include those tools that determine 'access to' or 'approval of' specified services and opportunities, which will likely be interpreted to side step critical uses of this technology which can include performance management, insurance rate adjustments, sentencing guidelines, and so on.
>
> Additionally, SB 420 includes exemptions for tools that:
> - only perform narrow procedural tasks
> - enhance human activities
> - detect patterns without influencing decisions, or
> - assist in preparatory tasks for assessment.
>
> These terms and definitions are pulled directly from the EU AI Act. We understand the impulse to align California legislation with other jurisdictions; however, the EU AI Act is much more comprehensive than SB 420 and is woven into a broader preexisting ecosystem of technology regulation in the EU. Incorporating exemptions without aligning it fully creates a confusing and problematic application in the California context.

SUPPORT

Church State Council

OPPOSITION

California Chamber of Commerce
Computer and Communications Industry Association
Technet

RELATED LEGISLATION

Pending Legislation:

SB 7 (McNerney, 2025) *See* Comment 3. SB 7 is currently in the Senate Labor, Public Employment and Retirement Committee.
SB 468 (Becker, 2025) imposes a duty on a business that deploys a high-risk artificial intelligence system, or high-risk ADS, that processes personal information to protect

that information and requires such a deployer to maintain a comprehensive information security program that meets specified requirements. SB 468 is currently in this Committee.

AB 1018 (Bauer-Kahan, 2025) *See* Comment 3. AB 1018 is currently in the Assembly Privacy and Consumer Protection Committee.

Prior Legislation:

SB 892 (Padilla, 2024) would have required CDT to develop and adopt regulations to create an ADS procurement standard, as specified, and prohibited a state agency from procuring ADS, entering into a contract for ADS, or any service that utilizes ADS, until CDT has adopted regulations creating an ADS procurement standard, as specified. SB 892 was vetoed by Governor Newsom, who stated in his veto message that aspects of the bill would disrupt ongoing work, "including existing information technology modernization efforts, which would lead to implementation delays and higher expenses for critical projects."

AB 2885 (Bauer-Kahan & Umberg, Ch. 843, Stats. 2024) established a uniform definition for "artificial intelligence" in California's code, which is used in this bill.

AB 2930 (Bauer-Kahan, 2024) *See* Comment 3. AB 2930 died without a vote on the Senate Floor.

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.

AB 331 (Bauer-Kahan, 2023) was substantially similar to AB 2930. AB 331 died in the Assembly Appropriations Committee.

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