
OLR Bill Analysis

sSB 435

AN ACT CONCERNING AUTOMATED DECISION SYSTEMS PROTECTIONS FOR EMPLOYEES.

SUMMARY

This bill sets limitations and requirements for employers using an automated employment-related decision process (AEDP) (for example artificial intelligence (AI)) to make employment-related decisions. Among other things, it requires AEDP deployers to (1) notify job applicants and employees about certain information when the deployer uses AEDP; (2) have a way for applicants and employees to appeal an adverse employment decision made by an AEDP, including through a human review process; and (3) have an independent bias audit performed on the AEDP annually.

The bill prohibits firing, discriminating against, or retaliating against an applicant or employee because they filed a complaint about a violation of the bill's AEDP provisions, objected to or refused to participate in an activity that they reasonably believed to be a violation of them, or exercised any rights granted under them. It allows aggrieved applicants, employees, and their unions to sue in Superior Court. It also makes violations of the bill's AEDP provisions an unfair or deceptive trade practice, solely enforced by the attorney general.

The bill also:

1. expands the information that must be included in the annual inventory of state agency AI systems;
2. generally prohibits state agencies from (a) using AI to perform certain functions or (b) procuring or acquiring an AI system without specific legal authorization;
3. explicitly makes the use of AI a subject of collective bargaining

for public sector employees;

4. makes it a discriminatory employment practice for an employer to use an AEDP in a way that causes the employer to refuse to hire someone or discriminate against them based on their protected class status (for example, race, religion, or sex); and
5. requires employers subject to the federal Worker Adjustment and Retraining Notification (WARN) Act to disclose whether certain layoffs are due to using AI.

EFFECTIVE DATE: October 1, 2026

§§ 1-13 — AUTOMATED EMPLOYMENT-RELATED DECISION PROCESSES

Under the bill, an “automated employment-related decision process” is a computational process that makes, helps make, or is used in the course of making an employment-related decision. This includes a computational process that:

1. uses a computer-based assessment or test to (a) make a predictive assessment about a job applicant or employee; (b) measure the applicant’s or employee’s skills, dexterity, reaction time, or any other ability or characteristic; (c) measure the applicant’s or employee’s personality traits, aptitude, attitude, or cultural fit; or (d) screen, evaluate, categorize, or recommend an applicant or employee;
2. directs job advertisements or other recruiting materials to targeted groups;
3. screens resumes for particular terms or patterns;
4. analyzes a facial expression, word choice, or voice captured during an online interview; or
5. analyzes data from a third party about an applicant or employee.

AEDP does not include software or technology such as word

processing, data storage, or anti-virus software to the extent that it does not make an employment-related decision.

An “employment-related decision” is a decision about a term or condition of employment. It includes decisions (1) to hire, promote, or terminate a job applicant or employee; (2) about an applicant’s or employee’s compensation, scheduling, duty assignments, productivity monitoring, workplace surveillance, or performance evaluations; and (3) affecting an applicant’s or employee’s rights, benefits, or obligations.

Required Information (§ 2)

The bill generally requires the developer of an AEDP deployed in the state to give the system’s deployer all information that the deployer needs to perform its duties under the bill. For this purpose, the “developer” is the person (including entities) doing business in the state who develops, or intentionally and substantially modifies, an AEDP. A “deployer” is a person doing business in the state who puts an AEDP into use in the state.

The bill allows an AEDP developer to enter into a contract with a deployer to assume the deployer’s disclosure requirements under the bill (see §§ 3-6 below). This contract must be binding and clearly state which of the deployer’s duties the developer has assumed. No provision of the contract that waives or releases the developer’s or deployer’s joint and several liability under the bill can be enforced.

Disclosure Requirements (§§ 3-6)

All of the notice and disclosure requirements described below apply to an AEDP deployer unless a developer has contracted to assume the deployer’s disclosure duties.

Disclosure on Interacting with an AEDP. The bill requires a deployer who deploys an AEDP meant to interact with an in-state job applicant or employee to ensure that it is disclosed to each applicant or employee who interacts with the AEDP that they are interacting with one.

Personal Data Collection Disclosure. The bill requires a deployer,

before collecting from an in-state job applicant or employee any personal data for processing in an AEDP, to give the applicant or employee a written notice disclosing:

1. the data collection's purpose;
2. the personal data categories that will be collected for processing;
3. how long the personal data will be retained;
4. the categories of persons who will have access to this data; and
5. information about the right, under state law, to opt out of personal data processing for profiling in furtherance of solely automated decisions that produce legal or similarly significant effects.

Disclosure of Employment-Related Decisions. The bill requires a deployer, before using an AEDP to make, or be a substantial factor in making, an employment-related decision about an in-state job applicant or employee, to give the applicant or employee a written notice disclosing:

1. that the deployer has deployed an AEDP;
2. the AEDP's purpose and the employment-related decision's nature;
3. information about the right, under state law, to opt out of personal data processing for profiling in furtherance of solely automated decisions that produce legal or similarly significant effects;
4. the deployer's contact information;
5. the availability of human review under the bill (see § 7);
6. information about how the applicant or employee can request a reevaluation of any employment-related decision made in whole or in part by the AEDP;

7. a link to the summary of the most recent bias audit as required by the bill (see § 8); and
8. information on how to request additional documentation or information about the AEDP.

Under the bill, a “substantial factor” is a factor that helps in making, and can alter the outcome of, an employment-related decision about an individual in the state. It includes any use of an AEDP to generate any content, decision, prediction, or recommendation about someone that is used as a basis to make an employment-related decision about that individual.

The bill also requires such a deployer to have a process for an applicant or employee to request a reevaluation of any employment-related decision made in whole or in part by an AEDP.

Disclosure on Adverse Decisions. The bill requires a deployer who has deployed an AEDP to make, or be a substantial factor in making, an adverse employment-related decision about an in-state job applicant or employee to give the applicant or employee:

1. a high-level statement disclosing the principal reason or reasons for the adverse decision, including the (a) degree to which, and manner in which, the AEDP contributed to the decision; (b) type of data processed by the AEDP in making, or as a substantial factor in making, the decision; and (c) source of the data;
2. an opportunity to (a) examine the data the AEDP processed in making, or as a substantial factor in making, the adverse decision; (b) correct any incorrect data; and (c) appeal the decision, which must allow for human review; and
3. upon the applicant’s or employee’s request (or that of their representative), a copy of the most recent bias audit required under the bill.

Under the bill, a deployer who must give an applicant or employee a high-level statement about an adverse employment-related decision

must provide the statement (1) directly to the applicant or employee; (2) in plain language; (3) in all languages the deployer uses in the ordinary course of its business for contracts, disclaimers, sales announcements, and other information to persons in the state; and (4) in a format that is accessible to individuals with disabilities.

Human Review (§ 7)

The bill requires a deployer who uses an AEDP to make, or as a substantial factor in making, an employment-related decision about a job applicant or employee in the state to implement human review over the AEDP by allowing sufficient time to review (1) the content, decisions, predictions, or recommendations generated by the AEDP; (2) data upon which they are based; and (3) any other information relevant to them to confirm the accuracy of the data processed by the AEDP. When appropriate, it must also allow sufficient time to modify or veto any content, decision, prediction, or recommendation the AEDP generated before any adverse decision.

Under the bill, “human review” is a review conducted by a qualified individual who (1) has the authority to make or change an employment-related decision; (2) has received appropriate training to understand the AEDP’s capabilities, limitations, and risks, including its patterns of bias, disparate impact, and data quality issues; and (3) does not rely solely on the AEDP’s content, decision, prediction, or recommendation in making a final or determinative employment-related decision.

The bill requires a deployer to (1) establish procedures needed to pause, correct, or reverse erroneous or harmful content, decisions, predictions, or recommendations generated by an AEDP and (2) establish and maintain logs listing all human review reports and any intervention taken by an individual conducting a human review.

The bill prohibits deployers from using an AEDP to make any employment-related decision without human review over the decision.

Bias Audits (§ 8)

The bill requires deployers, before deploying an AEDP, and then

annually, to contract with an independent auditor to complete a bias audit. The audit must be done no later than one year before the date the deployer intends to deploy the AEDP.

The bill requires each bias audit to:

1. evaluate the AEDP's performance and error rates across relevant subgroups;
2. assess disparate impact caused by the AEDP against protected classes;
3. examine the sources of data processed by the AEDP and the quality of the content, decisions, predictions, or recommendations it generates;
4. evaluate the effects of any thresholds, scoring, or ranking criteria used by the AEDP; and
5. test for less discriminatory alternatives or adjustments to the AEDP.

The bill requires the labor commissioner to (1) establish and implement a process for approving independent auditors to conduct bias audits and (2) maintain a registry of the approved auditors. It prohibits deployers from contracting with independent auditors who (1) have a financial or operational interest in the deployer or the AEDP's developer or (2) have not been approved by the labor commissioner as required by the bill.

Under the bill, within 30 days after completing a bias audit the deployer must (1) file an audit report and plain-language summary of it with the commissioner in a form and manner she sets and (2) publish a plain-language summary of the audit report on the deployer's website in a conspicuous place accessible to job applicants and employees. The summary must include (1) the methodology used in the audit, (2) the audit's key findings and identified risks, and (3) any corrective actions taken by the deployer.

The bill prohibits an AEDP from being deployed or continuing to be deployed by a deployer if the most recent bias audit identified any disparate impact caused by the AEDP, unless the deployer can show that it has implemented corrective actions approved by the labor commissioner.

The bill requires deployers to maintain records on their required bias audits for at least five years and make them available to the labor commissioner upon request.

It allows the commissioner to (1) issue an order suspending the use of any AEDP by a deployer that violates these bias audit provisions and (2) adopt regulations needed to carry out these bias audit provisions, including establishing minimum qualifications for independent auditors and methodologic requirements for bias audits. The regulations must define the terms “relevant subgroups,” “disparate impact,” and “protected classes” by January 1, 2027.

Withholding Information (§ 10)

The bill specifies that its AEDP provisions (§§ 2-8) do not require any person to disclose trade secrets or information otherwise protected from disclosure under state or federal law. However, if a person withholds any information as a trade secret or protected information, the bill requires the person to send a notice to the person from whom the information is being withheld. The notice must disclose (1) that the person is withholding the information and (2) the basis for the person’s decision to do so.

The bill specifies that this provision does not allow any person to withhold information needed for an applicant or employee to exercise their rights under the bill’s AEDP provisions (§§ 3-8).

Retaliation Protections and Court Relief (§§ 9 & 12)

The bill prohibits employers, deployers, developers, labor organizations, or any other person from discharging, or in any way discriminating or retaliating against, a job applicant or employee because they (1) filed a complaint, provided information, or otherwise

assisted in an investigation or proceeding about any alleged violation of the bill's AEDP provisions (§§ 3-8); (2) objected to or refused to participate in any activity that they reasonably believed to violate those provisions; or (3) exercised any rights granted under those provisions.

Under the bill, an applicant or employee aggrieved by a violation of the AEDP provisions (including its retaliation protections), or an employee organization on their behalf, may bring a Superior Court civil action to recover damages and for declaratory, injunctive, or other equitable relief, including suspending the use of any AEDP. The court may award the applicant or employee costs and reasonable attorney's fees. Under the bill, a deployer of an AEDP who violates the bill's AEDP provisions and the AEDP's developer are jointly and severally liable.

CUTPA Violation (§ 11)

The bill also makes a violation of its AEDP provisions (§§ 3-8) an unfair or deceptive trade practice under the Connecticut Unfair Trade Practices Act (CUTPA, see BACKGROUND) to be enforced solely by the attorney general (and not by private lawsuits or class actions).

Notice to Employee Unions (§ 13)

Under the bill, if a job applicant or employee is represented by an employee organization (union), a deployer must give the organization written notice before any testing, deployment, or material modification of an AEDP.

§ 14 — ANNUAL INVENTORY OF STATE AGENCY AI SYSTEMS

By law, the Department of Administrative Services (DAS) must annually inventory all executive branch state agency systems that use AI. The inventory must include, among other things, whether the system (1) was used to independently make, inform, or materially support a conclusion, decision, or judgment and (2) had an impact assessment before its implementation.

Starting with the inventory due by the end of 2025, the bill expands the required information to also include (1) the date of the last impact assessment, (2) whether the system has access to personally identifiable

information of people in the state, (3) the cost of time savings provided by the system, and (4) the system’s potential risks to people in the state, communities, and state employees.

§ 15 — STATE AGENCY USE OF AI

The bill prohibits any state agency, or any entity acting on its behalf, from directly or indirectly using or applying an AI technology to perform a function that (1) is related to the agency delivering a public assistance benefit to people in the state or (2) will have a material impact on the rights, civil liberties, safety, or welfare of people in the state, unless the use or application is specifically authorized by law.

Under this provision, “AI technology” is a computer system, application, or other product that uses or incorporates one or more forms of AI. A “state agency” is any office, department, board, council, commission, institution, constituent unit of the state system of higher education, technical education and career school, or other agency in the executive, legislative, or judicial branch of state government.

The bill also prohibits state agencies from authorizing any procurement, purchase, or acquisition of any AI technology, unless its use is specifically authorized by law. Under the bill, if such an acquisition is authorized, the agency must contract with an independent auditor to complete a bias audit as required for AEDP deployers (see § 8). The audit must be submitted to the DAS commissioner, in a form and way she sets, and posted on the DAS website at least 60 days before the AI technology is deployed. The agency may redact any data in the bias audit to remove anyone’s personally identifiable information.

§§ 16-22 — AI IN PUBLIC EMPLOYEE COLLECTIVE BARGAINING

The bill specifies that municipal employees, state employees, and public school teachers have a right to collectively bargain over their employer’s (or, for teachers, board of education’s) use of AI technology.

The bill also prohibits the state and municipal employers, during the term of a written collective bargaining agreement with their employees, from using AI technology in a way that modifies or impairs the:

1. agreement in any way, including one that modifies or impairs the rights, benefits, and privileges of the union members by (a) reducing their wages, fringe benefits, or non-overtime hours or (b) assuming their duties and functions;
2. union's role as the exclusive representative of the bargaining unit for the agreement; or
3. relationship between the employer and the union with respect to the agreement.

§ 23 — AEDP IN EMPLOYMENT DISCRIMINATION

The bill makes it a discriminatory employment practice, under the laws administered by the Commission on Human Rights and Opportunities (CHRO), for an employer, or the employer's agent, to use an AEDP in any way that causes the employer to do any of the following based on the person's protected class status (for example, race, religion, sex, or gender identity or expression):

1. refuse to hire or employ someone;
2. bar or discharge someone from employment; or
3. discriminate against someone in compensation or in terms, conditions, or privileges of employment.

Existing law gives someone adversely affected by a discriminatory practice, or CHRO itself, the right to file a complaint with CHRO and, potentially, the courts. In any action for this particular discriminatory employment practice, the bill requires CHRO or a court to consider any evidence, or lack of it, of anti-bias testing or similar proactive efforts to avoid the discriminatory practice, such as the quality, efficacy, recency, and scope of the testing or efforts, their results, and the response to them.

The bill also makes it a discriminatory employment practice for an employer, or the employer's agent, to fail to give someone advance written notice that discloses that an AEDP will be used to make or help

make a decision (1) to hire or employ the person; (2) to bar or discharge the person from employment; or (3) about the person's compensation or terms, conditions, or privileges of employment. The notice must at least disclose the AEDP's trade name and the types and sources of personal information about the person that the AEDP will process or analyze.

§ 24 — AI NOTICE FOR UNEMPLOYMENT

The bill requires each employer that must notify the Department of Labor about certain layoffs under the federal WARN Act to disclose, in a form and way set by the labor commissioner, whether the layoffs are related to the employer's use of an AI system or another technological change. Generally, the WARN Act requires certain large employers to give 60 days' advance written notice of a mass layoff.

The bill also requires any application for unemployment benefits to include a question about whether the applicant's unemployment is due to an employer's use of an AI system.

BACKGROUND

CUTPA

By law, CUTPA prohibits businesses from engaging in unfair and deceptive acts or practices. It allows the consumer protection commissioner, under specified procedures, to issue regulations defining an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, impose civil penalties of up to \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and up to \$25,000 for a restraining order violation.

Related Bills

sSB 4, §§ 13 & 14, reported favorably by the General Law Committee, gives consumers the right to be informed whether a profiling decision used personal data from a third party in processing an employment denial and to correct any inaccuracies.

sSB 5, reported favorably by the General Law Committee, includes similar provisions on AEDP use, AI use in public sector employee collective bargaining, AEDP use in employment discrimination, layoff notices, and unemployment benefit applications.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 4 (03/19/2026)