AB 1018 (Bauer-Kahan) - Automated decision systems

Version: July 17, 2025	**Policy Vote:** JUD. 11 - 2
Urgency: No	**Mandate:** No
Hearing Date: August 18, 2025	**Consultant:** Liah Burnley

Bill Summary: AB 1018 regulates the development and deployment of automated decision systems.

Fiscal Impact:

- Unknown, potentially significant costs (local funds, General Fund) to local agencies that deploy ADS to make consequential decisions and must comply with the above-described requirements, possibly in the hundreds of millions of dollars annually statewide. For example, counties will be required to review all of their systems for compliance—including tools used for online testing, hiring, permitting, case management, risk assessments, and property management. They will also incur costs of audits, training, staffing, disclosures, appeals process, data retention, sending out notices, and potential legal exposure. If developers raise their cost as a result of this bill, these costs will be passed onto the counties. Counties may claim reimbursement of those costs if the Commission on State Mandates determines that this bill creates a new program or imposes a higher level of service on local agencies.

- The State Controller's Office (SCO) reports that it, and all other state governmental entities would be considered a "deployer," of an ADS, as defined in the bill. If SCO implemented one or multiple ADS systems that meet the criteria for oversight in AB 1018, SCO would anticipate needing the following General Fund Resources:

  - 2025-26: $1,408,000 for 7.0 two-year limited-term positions and one-time costs;

  - 2026-27: $1,384,000 for 7.0 two-year limited-term positions; and,

  - 2027-28 and ongoing: $761,000 for 4.0 permanent positions.

  SCO indicates that these estimates reflect the requirements for a large, complex agency such as the SCO managing sensitive personal and financial data across automated systems. Actual staffing may be adjusted depending on the complexity and scale of the deployed ADS. Some functions may overlap or be handled by existing staff with appropriate upskilling, while external contractors could augment capacity for short-term surges, such as during initial implementation or major audits. If AB 1018 becomes law, the SCO would need 5–7 information security staff—including a dedicated supervisor—for the initial implementation of AB 1018, with 3–4 (including the supervisor) required for ongoing security and compliance operations related to automated decision systems.

- Costs (special fund) of an unknown but potentially significant amount to the Labor Commissioner to enforce Labor Code violations, possibly in the millions of dollars, annually. Actual costs will depend on the number of enforcement actions and the amount of workload associated with each action.

- The Department of Justice (DOJ) estimates a fiscal impact of $2.5 million or less (General Fund, Unfair Competition Law Fund). The DOJ notes that implementation of this bill will be dependent upon the appropriation of funds. The DOJ will be unable to absorb the costs to comply with or implement the requirements of the bill within existing budgeted resources. The Consumer Protection Section (CPS), Civil Rights Enforcement Section (CRES) and Healthcare Rights & Access Section (HRA) within the Public Rights Division of the DOJ anticipate increased workloads in enforcing this bill beginning on January 1, 2026, and ongoing. The workload includes investigating and prosecuting violations. The Sections will require the following additional resources:

  o CPS: 1.0 Deputy Attorney General (DAG); 1.0 Associate Governmental Program Analyst (AGPA); 1.0 Legal Secretary (LS); and, $250,000 for External Consultant for expert witness services to support investigation and prosecution;

  o CRES: 1.0 Deputy Attorney General (DAG); 1.0 Associate Governmental Program Analyst (AGPA); 1.0 Legal Secretary (LS); and, $250,000 for External Consultant for expert witness services to support investigation and prosecution; and,

  o HRA: 1.0 Deputy Attorney General (DAG); 1.0 Associate Governmental Program Analyst (AGPA); 1.0 Legal Secretary (LS); and, $250,000 for External Consultant for expert witness services to support investigation and prosecution.

- The Civil Rights Department (CRD) estimates a fiscal impact over $2 million (General Fund). CRD notes that this bill places requirements on ADS developers and deployers. It also provides the CRD with the authority to bring a civil action to enforce compliance with this bill. CRD anticipates requesting eight positions, including researchers/ research data specialists, associate governmental program analysts, and attorneys, approximately $2.2 million for FY 26-27, and $2.1 million for FY 27-28 and ongoing. In addition to covering the costs of the new positions, these resources would also fund an ongoing contract with an expert consultant, IT and other administrative costs, and a one-time job analysis that would be required for one of the research positions. These resources would be necessary to support the complex legal and technological analysis required to enforce the components of this bill.

- The State Water Board estimates a significant fiscal impact (General Fund, special funds) likely in the millions of dollars per year. The State Water Board reports, as written, this bill's definition of automated decision system is vague, ambiguous, and could encompass many current tools used, like excel workbooks. These tools are used broadly across Water Boards programs, and many are used to inform actions that could be considered consequential actions under the bill. To meet the bill's

provision, the State Water Board estimates significant cost pressures, likely in the millions of dollars per year. Costs would allow the State Water Board to fulfill several requirements regarding each of these covered systems. This would include facilitating and conducting a performance evaluation, contracting with an independent third party to perform audits on any systems the Water Boards develops, notifying those impacted by the consequential decision about the use of the ADS, and providing an appeal process. Taking these steps for each covered system, if feasible at all, would require significant additional staff and contract resources in the millions of dollars annually, impacting all Water Boards' fund sources. Alternatively, State Water Board programs would need to find ways to store, process, and analyze data to make decisions without using any tool which would qualify as an automated decision system. Costs would be incurred from all eligible State Water Board fund sources.

- UC Health estimates a fiscal impact of $42 million in one-time costs and approximately $24 million in ongoing costs to implement AB 1018. Compliance costs for the University's health systems include expenses related to implementing required audits, administrative processes, staff training, and system modifications.

- The California Department of Health and Human Services (CalHHS) reports a significant fiscal impact (General Fund, special funds). The Office of Technology and Solutions Integration (OTSI) estimates costs, across the 12 CalHHS departments, in the low millions up to low tens of millions (Total Fund) annually as solutions applicable under the bill are expected to grow in use over the coming years. These costs are estimated and attributable due to legal and security resources for monitoring and enforcement, compliance oversight, IT development and staffing necessary for governance and appeals management. This bill could impact many of the Agency's information systems and data solutions as Generative AI solutions are being built into many of the tools used. Evaluation and governance will become ongoing cost-pressure as it becomes necessary to review not just risk/compliance related to AI components of solutions, but applicability to the requirements of this bill. This bill would require programming and processing revisions, stakeholder engagement, development and operation of an appeal process in all cases, along with a third-party audit (beginning in 2030). The costs to implement this bill depends on the number of solutions and complexity of developing and resourcing the appeals processes that are yet to be determined. This estimate does not include potential increased contracting costs due to vendors including costs for conducting the assessment and other requirements.

- The California Department of Corrections and Rehabilitation (CDCR) reports that it does not currently use platforms it considers to be Automated Decision Systems (ADS). As a result, CDCR does not anticipate immediate costs associated with the requirements in AB 1018. However, should the department choose to implement or develop systems in the future that meet the bill's definition of an ADS, there could be costs associated with compliance. These may include but are not limited to performance evaluations, third-party audits, disclosure and documentation requirements, and staff oversight responsibilities outlined in the bill. It should be noted that CDCR uses several risk assessment tools, including, but not limited to, the Static-99R to assess every eligible sex offender prior to release on parole, the California Static Risk Assessment tool to assess the risk of reoffending, the

Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) to assess an incarcerated individuals needs and target those needs, and the Automated Reentry Management System (ARMS). If this bill is interpreted to apply to these tools, CDCR, and other correctional agencies, could potentially incur a significant fiscal impact.

- The Department of Finance (DOF) reports potential unknown costs (General Fund) and indicates that that this bill may apply to its ongoing pilot using generative artificial intelligence to assist with bill analyses.

- Unknown, potentially significant costs to the Judicial Council, likely in the hundreds of millions annually. This bill could hamper the ability of trial courts and their justice partners to use several tools, including SARATSO for sex offenders, and many others, such as pretrial risk assessment tools minimize bias in pretrial detention situations. Developers of these tools, including nonprofits, universities, and even the state of Virginia, are unlikely to make any adjustments as would be required under this bill. As such, the entire judicial branch could potentially lose the use of all pretrial risk assessment tools, as their developers do not necessarily have a strong financial incentive to adhere to this bill's stringent requirements. Courts also use tools such as MyCitation, which would also be affected. MyCitation is a tool created by the Judicial Council pursuant to AB 143 (Committee on Budget) Stats. 2021, ch. 79, designed as an easy-to-use option for defendants to provide relevant financial information for the court to consider reductions in infraction fines and fees owed.

- Unknown, potentially significant costs to the state funded trial court system (Trial Court Trust Fund, General Fund). By authorizing a new civil penalty with statutory damages, this bill will likely lead to additional case filings that otherwise would not have been commenced, with attendant workload and resource costs to the court. This bill may result in additional trial court costs to the extent that cases are brought to litigate its constitutionality. The fiscal impact of this bill to the courts will depend on many unknowns, including the number of cases filed and the factors unique to each case. An eight-hour court day costs approximately $10,500 in staff in workload. This is a conservative estimate, based on the hourly rate of court personnel including at minimum the judge, clerk, bailiff, court reporter, jury administrator, administrative staff, and jury per-diems. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations.

- Costs (General Fund, special funds) of an unknown but significant amount to each state agency that deploys ADS to make or contribute to consequential decisions and must comply with this bill's notice, opt-out, correction, appeal, and, if applicable, audit requirements. In the aggregate, for all affected state agencies, costs may be in the hundreds of millions of dollars annually ongoing.

Background: ADS, especially those powered by AI, are being increasingly deployed in a multitude of contexts, including employment, housing, education, and healthcare. 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.

According to the SEIU California and TechEquity Action, sponsors of this bill: "While the advent of generative AI and large language models has been a new piece of the puzzle, ADS have long existed in our communities. ADS have been woven into the daily lives of our community members—increasingly these tools are dictating access to and the quality of housing, healthcare, employment, credit, and many other critical services Californians need. The potential harms and biases of these systems have been well documented—from banks using lending models that were twice as likely to deny Black applicants compared to White applicants with the same financial profile, to healthcare providers using ADS that significantly underestimated the healthcare needs of Black patients compared to White ones. Technology should not be a pass to violate our civil and labor rights, this legislation regulates the misuse of automated systems."

Opponents of this measure include a broad scope of industries that will be impacted by its requirements. Writing in opposition, a coalition of financial industry groups, including the California Credit Union League, point out that "Financial services are already comprehensively regulated by multiple state and federal frameworks that focus on outcomes and consumer protection" and that "Current federal and state laws already explicitly prohibit bias and discrimination in financial decisions." They contend, that the broad scope of the bill would create significant operational challenges for financial institutions of all sizes and the proposed requirements could slow innovation and limit access to financial services for underserved populations.

Writing on behalf of a broad coalition representing physicians, hospitals and health systems, pharmaceutical research, health plans, and other health care stakeholders, California Life Sciences points out that that this legislation, while well-intentioned, would harm patient care, exacerbate existing health disparities, and negatively impact the overall health care delivery system. The compliance costs associated with AB 1018 would be substantial. These costs would be passed on to payers and ultimately individual Californians, leading to higher health care expenses. In a state already grappling with high health care costs, it is crucial to avoid policies that would exacerbate this issue.

Colorado Governor Jared Polis recently called a special legislative session set to begin August 21, 2025 to address Colorado's AI law (the Colorado Artificial Intelligence Act or "CAIA"), which is set to take effect February 1, 2026, to address federal preemption considerations, the state's budget issues, and to potentially delay the bill's implementation. CAIA is the nation's first comprehensive state-level regulation of artificial intelligence systems. Similar to this bill, CAIA, applies to AI systems for consequential decisions, and requires impact assessments, disclosures, appeals and correction rights, and document keeping and record retention. CAIA faced immediate industry backlash in Colorado, and the state's AI task force warned in February that the law's terminology and compliance burdens could overwhelm smaller employers and create uncertainty for developers.

Proposed Law:

- Defines all of the following:

  - "Artificial intelligence" as an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments.

  - "Automated decision system" as 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 designed or used to assist or replace human discretionary decisionmaking and materially impacts natural persons. "Automated decision system" does not mean a spam email filter, firewall, antivirus software, identity and access management tool, calculator, database, dataset, or other compilation of data.

  - "Consequential decision" as a decision that materially impacts the cost, terms, quality, or accessibility of any of the following to a natural person:

    - Employment-related decisions;

    - Education and vocational training as they relate to assessment and placement, detecting student cheating and plagiarism, accreditation, certification, admissions and enrollment, discipline, evaluation, financial aid and scholarships, and proctoring;

    - Housing and lodging as they relate to rental or short-term housing and lodging, home appraisals, rental subsidies, publicly supported housing, and essential utilities.

    - Family planning, adoption services, reproductive services, and assessments related to child protective services.

    - Health care and health insurance, including mental health care, dental, and vision;

    - Financial services, including a financial service provided by a mortgage company, mortgage broker, or creditor;

    - The criminal justice system with respect to pretrial release, sentencing, and alternatives to incarceration;

    - Legal services;

    - Private arbitration;

    - Mediation;

- Elections as they relate voting, redistricting, voter eligibility and registration, distribution of voting information, and election administration;

- Access to government benefits or services or assignment of penalties by a government entity;

- Places of public accommodation;

- Insurance; and,

- Internet and telecommunications access.

o "Covered automated decision system" or "covered ADS" as an automated decision system that is designed or used to make or facilitate a consequential decision.

o "Deployer" as a person, partnership, state or local government agency, corporation, or developer that uses a covered ADS to make or facilitate a consequential decision, either directly or by contracting with a third party for that purpose.

o "Developer" as a person, partnership, state or local government agency, corporation, or deployer that designs, codes, substantially modifies, or otherwise produces an automated decision system that makes or facilitates a consequential decision, either directly or by contracting with a third party for those purposes.

o "Developer-approved use" as a deployment context in which a developer intends a covered ADS to make or facilitate a consequential decision. "Developer-approved use" includes any reasonably foreseeable fine tuning of the covered ADS.

o "Disparate impact" as a differential effect on a group of individuals who share a protected characteristic.

o "Disparate treatment" as differential treatment of an individual or group of individuals on the basis of a protected characteristic.

o "Employment-related decision" as a decision made by an employer, either directly or through a third party, that affects wages, benefits, other compensation, hours, work schedule, performance evaluation, hiring, discipline, promotion, termination, job tasks and responsibilities, assignment of work, access to work and training opportunities, productivity requirements, workplace health and safety, or other terms or conditions of employment.

o "Express consent" as an affirmative written authorization that is granted in response to a notice that is clear, meaningful, and prominent, conveyed in a manner that a natural person would notice and understand it, and not contained within a more general notice, agreement, or set of terms and

conditions. "Express consent" does not mean an authorization that is either inferred from inaction, or obtained through the use of a dark pattern, as defined.

- o "Fine-tune" as to adjust the model parameters of an automated decision system through exposure to additional data.

- o "Labor Commissioner" as Chief of the Division of Labor Standards Enforcement.

- o "Substantial modification" as a new version, release, update, or other modification to a covered ADS that materially changes its uses or outputs. "Substantial modification" does not mean a modification those results from fine tuning.

- With respect to a covered ADS that was first deployed, or made available to potential deployers, before January 1, 2026, the developer of the covered ADS shall conduct an initial performance evaluation on the covered ADS before January 1, 2027, and annually thereafter.

- With respect to a covered ADS that is first deployed or made available to potential deployers on or after January 1, 2026, the developer of the covered ADS shall conduct a performance evaluation on the covered ADS before initially deploying the covered ADS, or making the covered ADS available to potential deployers, and annually thereafter.

- In conducting a performance evaluation on a covered ADS, a developer shall do all of the following:

- o Describe the purpose of the covered ADS.

- o List and describe all developer-approved uses of the covered ADS.

- o For each developer-approved use, evaluate the expected performance of the covered ADS and document all of the following:

  - The expected accuracy and reliability of the covered ADS.
  - Any reasonably foreseeable effects of fine tuning on the accuracy and reliability of the covered ADS.
  - Whether any disparate treatment is intended to occur and, if so, all of the following:
  - The conditions under which each disparate treatment is intended to occur.
  - Whether each disparate treatment is necessary for a developer-approved use.
  - Whether any alternatives not involving disparate treatment were considered.
  - Any reasonably foreseeable effects of fine tuning on disparate treatment.

- Whether any disparate impacts are reasonably likely to occur and, if so, all of the following:
- The conditions under which each disparate impact is reasonably likely to occur.
- Whether each disparate impact is necessary for a developer-approved use.
- Whether any alternatives not involving disparate impacts were considered.
- Whether any measures have been taken by the developer to mitigate the risk of unanticipated disparate impacts resulting from the use of the covered ADS.
- With respect to a covered ADS that has been deployed, whether any unanticipated disparate impacts have been reported to the developer by a deployer, and whether the developer has taken any measures to mitigate those disparate impacts.
- Any reasonably foreseeable effects of fine tuning on disparate impacts.

o Beginning January 1, 2030, contract with an independent third-party auditor to assess the developer's compliance.

o Provide the auditor with any available information that is reasonably necessary for the auditor to comprehensively assess developer compliance. A developer that provides documentation to an auditor make reasonable redactions for the purpose of protecting trade secrets. To the extent that a developer withholds information, the developer shall notify the auditor and provide a basis for the withholding.

- If the deadline for conducting a performance evaluation elapses before the audit has been completed, a developer shall not deploy the covered ADS or make the covered ADS available to potential deployers until the audit has been completed.

- A developer that receives feedback from an auditor shall do both of the following:

o Consider and attempt to incorporate that feedback into the development of any subsequent version of a covered ADS.

o Make a high-level summary of the feedback publicly available at no cost to users of the developer's internet website.

- A developer that sells, licenses, or otherwise transfers a covered ADS to a potential deployer shall provide the deployer with all of the following:

o The results of the most recent performance evaluation conducted on the covered ADS.

o For each developer-approved use of the covered ADS, instructions explaining how the covered ADS should be used by the deployer to make or facilitate a consequential decision.

- o For each developer-approved use of the covered ADS, a description of whether and under what circumstances the covered ADS can be fine-tuned.

  - o An explanation of the deployer's responsibilities under this chapter, including a description of any circumstances under which the deployer would assume the responsibilities of a developer.

  - o Any technical information necessary for the deployer to comply with this chapter. A developer shall not be required to provide additional technical information to a deployer that has assumed the responsibilities of a developer.

  - o A developer that provides documentation to a potential deployer pursuant to this subdivision may make reasonable redactions for the purpose of protecting trade secrets. To the extent that a developer withholds information the developer shall notify the deployer and provide a basis for the withholding.

- A developer that receives an impact assessment from an auditor of a deployed covered ADS provide all of the following information to any deployer of the covered ADS:

  - o Any material differences between the expected accuracy of the covered ADS and the observed accuracy of the covered ADS and the deployment conditions under which those differences are reasonably likely to occur.

  - o Any material differences between the expected reliability of the covered ADS and the observed reliability of the covered ADS and the deployment conditions under which those differences are reasonably likely to occur.

  - o Any unanticipated disparate impacts resulting from the use of the covered ADS and the deployment conditions under which those disparate impacts are reasonably likely to occur.

  - o An explanation of any steps the deployer can take to mitigate these discrepancies.

- A developer that receives feedback from an auditor shall consider and attempt to incorporate that feedback into the development of any subsequent version of a covered ADS.

- A developer that provides documentation to a deployer pursuant to this section shall ensure the documentation is all of the following:

  - o Transmitted directly to the deployer or otherwise made available in a manner reasonably calculated to ensure the deployer receives the documentation.

  - o Provided in English and in any other language the developer regularly uses to communicate with deployers.

- o Presented in a manner that ensures the communication clearly and effectively conveys the required information to the deployer.

- A developer that deploys a covered ADS or makes a covered ADS available to potential deployers shall maintain all of the following documentation in an unredacted format for as long as the developer deploys the covered ADS or makes the covered ADS available to potential deployers plus 10 years:

    - o The results of any performance evaluations conducted on the covered ADS.

    - o Any documentation provided to deployers.

    - o Any documentation provided to, or received from, auditors.

    - o Records of any redactions.

- It is unlawful to advertise to consumers in the state that a covered ADS is capable of performing in a manner not substantiated by the results of the most recent performance evaluation conducted on the covered ADS.

- A developer that deploys a covered ADS or makes a covered ADS available to potential deployers shall designate at least one employee to oversee the developer's compliance with this chapter. A developer shall require the designated employee to conduct a prompt and comprehensive review of any credible compliance issue raised to that employee.

- This section does not apply to a developer subject to the federal Gramm-Leach-Bliley Act (15 U.S.C. Sec. 6801 et seq.) who uses a covered ADS to make or facilitate a consequential decision related to financial services, as described.

- Unless the subject of the consequential decision is having a medical emergency, before a deployer finalizes a consequential decision made or facilitated by a covered ADS, the deployer shall provide any subject of that decision with a plain language written disclosure containing all of the following information:

    - o A statement informing the subject that a covered ADS will be used to make or facilitate the consequential decision.

    - o The name, version number, and developer of the covered ADS.

    - o Whether the deployer's use of the covered ADS is within the scope of a developer-approved use and a description of that use.

    - o The personal characteristics or attributes of the subject that the covered ADS measures or assesses to make or facilitate the consequential decision.

    - o The sources of personal information collected from the subject to make or facilitate the consequential decision.

- o (Any key parameters known to disproportionately affect the outcome of the consequential decision.

  o The structure and format of the outputs of the covered ADS and a plain language description of how those outputs are used to make or facilitate the consequential decision.

  o Whether a natural person will review either of the following before the consequential decision is finalized:

    - The outputs of the covered ADS.

    - The outcome of the consequential decision.

  o The subject's rights and the means and timeframe for exercising those rights.
  o Contact information for the deployer.

  o Contact information for the entity that manages the covered ADS, if that entity is not the deployer.

  o Contact information for the entity that will interpret the results of the covered ADS, if that entity is not the deployer.

- Unless the subject of the consequential decision is having a medical emergency, after a deployer finalizes a consequential decision made or facilitated by a covered ADS, the deployer shall provide any subject of that decision with a plain language written disclosure containing all of the following information within five days:

  o The personal characteristics or attributes of the subject that the covered ADS used to make or facilitate the consequential decision.

  o The sources of personal information collected from the subject that were used to make or facilitate the consequential decision.

  o Any key parameters that disproportionately affected the outcome of the consequential decision.

  o The structure and format of the outputs of the covered ADS and a plain language description of how those outputs were used to make or facilitate the consequential decision.

  o The role that the ADS played in making the consequential decision and whether any human judgment was involved.

  o Contact information for the deployer.

  o Contact information for the entity that manages the covered ADS, if that entity is not the deployer.

- o Contact information for the entity that will interpret the results of the covered ADS, if that entity is not the deployer.

  o The subject's rights and the means and timeframe for exercising those rights.

- A deployer that provides documentation to a subject of a consequential decision shall ensure the documentation is all of the following:

  o Transmitted directly to the subject.

  o Provided in English and in any other language that the deployer regularly uses to communicate with subjects.

  o Made available in formats that are accessible to people who are blind or have other disabilities.

  o Presented in a manner that ensures the communication clearly and effectively conveys the required information to the subject.

- After a deployer finalizes a consequential decision made or facilitated by a covered ADS, the deployer shall provide any subject of that decision with an opportunity to do both of the following within 30 business days:

  o Correct any incorrect personal information used by the covered ADS to make or facilitate the consequential decision. A deployer shall comply with a request to correct personal information within 30 business days of receiving the request if the request is accompanied by documentation sufficient to assess the basis for the request. If a deployer determines that complying with a request to correct personal information would change the outcome of the consequential decision, the deployer shall, within 30 days of making the determination, rectify the decision. If a deployer determines that complying with a request to correct personal information would not change the outcome of the consequential decision, the deployer shall, within 30 days of making the determination, inform the subject that the correction was made but that it did not alter the decision.

  o A deployer that denies a request to correct personal information shall do both of the following:

    - Provide the subject with an explanation of the basis for the denial.
    - Provide the subject with a reasonable opportunity to request that the deployer delete the subject's personal information.

  o Appeal the outcome of the consequential decision.

- A deployer shall review a request to appeal a consequential decision within 30 business days of receiving the request if the request is accompanied by documentation sufficient to assess the basis for the request. If a deployer determines that the original decision was incorrect, the deployer shall, within 30

days of making the determination, rectify the decision. If a deployer determines that the original decision was correct, the deployer shall, within 30 days of making the determination, inform the subject that the consequential decision will not be altered.

- A deployer that denies a request to appeal the outcome of a consequential decision shall provide the subject with an explanation of the basis for the denial.

- A deployer that provides documentation to the subject of a consequential decision may make reasonable redactions for the purpose of protecting trade secrets. To the extent that a deployer withholds information, the deployer shall notify the subject and provide a basis for the withholding.

- A deployer's collection, use, retention, and sharing of personal information from a subject of a consequential decision shall be reasonably necessary and proportionate to achieve the purposes for which the personal information was collected and processed, or for another disclosed purpose that is compatible with the context in which the personal information was collected, and not further processed in a manner that is incompatible with those purposes.

- A deployer that does any of the following assumes the responsibilities of a developer:

    o Uses a covered ADS to make or facilitate consequential decisions that directly impact more than 6,000 people in a given three-year period, if the deployer did not receive any documentation from the developer of the covered ADS during the three-year period.

    o Uses a covered ADS to make or facilitate consequential decisions that directly impact more than 6,000 people in a given three-year period, if the deployer's use of the covered ADS is outside the scope of a developer-approved use.

    o Substantially modifies an automated decision system and does either of the following:

        ▪ Uses the substantially modified system to make or facilitate consequential decisions that directly impact more than 6,000 people in a given three-year period.
        ▪ Makes the substantially modified system available to potential deployers.

- A deployer that uses a covered ADS to make or facilitate a consequential decision shall retain the following documentation in an unredacted format for as long as the deployer uses the covered ADS plus 10 years:

    o Any documentation received from developers pursuant to this chapter.

- o Any documentation provided pursuant to this section to subjects of consequential decisions made or facilitated by the covered ADS.

- o Any requests to correct personal information.

- o Any requests to appeal the outcome of a consequential decision.

- o Any documentation provided to, or received from, auditors.

- o Records of any redactions made.

- A deployer that uses a covered ADS to make or facilitate a consequential decision shall designate at least one employee to oversee the deployer's compliance with this chapter. A deployer shall require the designated employee to conduct a prompt and comprehensive review of any credible compliance issue related to the deployer's use of a covered ADS that is raised to that employee.

- Requires, within 30 days of receiving a request from the Attorney General for a performance evaluation, a developer, deployer, or auditor of a covered ADS shall provide an unredacted copy of the performance evaluation to the Attorney General.

- Allows the Attorney General may share performance evaluations with other enforcement entities as necessary for enforcement purposes.

- Provides that the disclosure or sharing of a performance evaluation does not constitute a waiver of any attorney-client privilege, work-product protection, or trade secret protection that might otherwise exist with respect to any information contained in the performance evaluation.

- Provides that a performance evaluation disclosed or shared is exempt from the California Public Records Act.

- Makes each day a covered ADS is used for which a performance evaluation has not been submitted to the Attorney General an additional violation.

- Authorizes any of the following public entities may bring a civil action against a developer, deployer, or auditor for a violation for injunctive relief, declaratory relief, reasonable attorney's fees and litigation costs and a civil penalty of up to $25,000 per violation:

  - o The Attorney General;

  - o A district attorney, county counsel of any county within which a city has a population in excess of 750,000, city attorney in a city and county, or city attorney of a city having a population in excess of 750,000;

  - o A city prosecutor in any city having a full-time city prosecutor with the consent of the district attorney;

- o The Civil Rights Department; and,

- o The Labor Commissioner with respect to employment-related decisions only.

- Provides that a developer or deployer who contracts with a third party to perform the developer's or deployer's duties under this chapter, other than those duties related to auditing, is subject to liability for the third party's failure to perform those duties.

- Provides that these provisions do not apply to an automated decision system the sole purpose of which is to do either of the following:

  - o Detect, protect against, or respond to cybersecurity incidents or preserve the integrity or security of computer systems; or,

  - o Operate aircraft in the national airspace.

- Provides that the use of a consumer credit score to inform a consequential decision does not itself create an obligation under this chapter.

- Provides that, in an action alleging the defendant's development, modification, or use of an automated decision system is alleged to have caused or facilitated the violation, the extent to which the defendant complied with these provisions is relevant to, but not conclusive of, whether the defendant committed a violation.

Related Legislation:

AB 331 (Bauer-Kahan), of the 2023-24 Legislative Session, would have required deployers and developers to conduct annual impact assessments of the potential impacts of their ADS and prohibited use of ADS that contributed to discrimination. AB 331 was held on the Assembly Appropriations Committee's suspense file.

AB 2930 (Bauer-Kahan), of the 2023-24 Legislative Session, would have implemented a regulatory framework for use of ADS by government and private entities, with the goal of to preventing algorithmic discrimination. Amendments made in this Committee limited the bill's scope to private deployers of ADS and consequential decisions relating to employment. AB 2930 died on the Senate Inactive File.

This bill is one of a many related to AI this Legislative Session:

- SB 53 (Weiner) establishes a consortium develop a framework for the creation of a public cloud computing cluster to advance the development of AI that is safe, ethical, equitable, and sustainable. SB 53 is pending in the Assembly Appropriations Committee.

- SB 366 (Smallwood Cuevas) creates a study evaluating the impact of AI on worker well-being. SB 366 was held under submission in this Committee.

- SB 420 (Padilla) regulates high-risk automated decision systems. SB 420 was not head in the Assembly Committee on Privacy and Consumer Protection.

- SB 468 (Becker) imposes a duty on business that deploy a high-risk AI systems that processes personal information to protect personal information. SB 468 was held under submission in this Committee.

- SB 503 (Weber Pierson) requires developers of patient care decision support tools and health facilities to make reasonable efforts to identify uses of patient care decision support tools in health programs. SB 503 is pending in the Assembly Appropriations Committee.

- SB 524 (Arreguin) requires law enforcement agencies to note when they use AI on official reports. SB 524 is pending in the Assembly Appropriations Committee.

- SB 579 (Padilla) establishes a mental health and AI working group. SB 579 was held under submission in this Committee.

- SB 833 (McNerney) requires a state agency in charge of critical infrastructure that deploys AI to establish a human oversight mechanism. SB 833 is pending in the Assembly Appropriations Committee.

- AB 222 (Bauer-Kahan) requires reporting about energy use related to AI. AB 222 is pending in this Committee.

- AB 316 (Krell) prohibits a defendant that used AI from asserting a defense that the AI autonomously caused the harm to the plaintiff. AB 316 is pending on this Committee's Suspense File.

- AB 410 (Wilson) requires bots using AI to disclose that they are bots. AB 410 is pending in this Committee.

- AB 412 (Bauer Kahan) requires a of a generative AI model to document any copyrighted materials used to train the model. AB 412 was not heard in the Senate Judiciary committee at the request of the author.

- AB 489 (Bonta) makes provisions of law that prohibit the use of specified terms, letters, or phrases to falsely indicate or imply possession of a license or certificate to practice a health care profession enforceable against an entity who uses AI. AB 489 is pending in this Committee.

- AB 853 (Wicks) requires a large online platform to retain any available provenance data in content posted on the large online platform. AB 853 is pending in this Committee.

- AB 979 (Irwin) develops a California AI Cybersecurity Collaboration Playbook to facilitate information sharing across the AI community. AB 979 is pending in this Committee.

- AB 1064 (Bauer-Kahan) adopts criteria for determining the level of estimated risk of an AI system on children. AB 1064 is pending in this Committee.

- AB 1159 (Addis) prohibits using student personal information to train AI. AB 1159 is was not heard at the request of the author in the Assembly Committee on Privacy and Consumer Protection.

- AB 1405 (Bauer-Kahan) establishes a mechanism allowing natural persons to report misconduct by AI auditors. AB 1405 is pending in this Committee.

-- END --