Date of Hearing: July 16, 2025
Fiscal: Yes

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION
Rebecca Bauer-Kahan, Chair
SB 7 (McNerney) – As Amended July 9, 2025

SENATE VOTE: 27-10

SUBJECT: Employment: automated decision systems

SYNOPSIS

Automated Decision Systems (ADS) typically use artificial intelligence (AI) that produce simplified outputs – such as scores, classifications, or recommendations – to assist or replace human discretionary decisionmaking. ADS can process enormous datasets, identify hidden patterns, and make decisions with efficiency and scale that vastly exceeds human capabilities. But relying on ADS to make life-impacting decisions can be hazardous if deployed without proper oversight: the datasets they are trained on are often unrepresentative or contaminated with bias, the inferences they draw from those datasets are often inscrutable, and these systems can fail to accurately account for the complexity of human behavior. Without human-centered oversight, particularly in consequential contexts such as employment, housing, healthcare, and criminal justice, these impacts can be irreparable.

One especially impactful area in which ADS are being deployed at scale is employment. Employers are increasingly using ADS to manage workforce operations, including hiring, setting schedules, assigning tasks, and tracking performances, as well as for disciplinary purposes, such as automated tracking of workplace violations. This bill, the No Robot Bosses Act, would establish a comprehensive set of requirements governing the use of ADS in the workplace by requiring human oversight and independent corroboration when employers use ADS for decisions that impact workers' livelihoods. Before using ADS for employment-related decisions other than hiring, employers must provide notice containing specified information to directly affected workers. Certain types of ADS, such as those that infer sensitive information about workers or attempt to predict their behavior, are prohibited. And with respect to especially consequential decisions involving discipline, termination, or deactivation, the bill: prohibits employers from relying primarily on the ADS to make the decision; requires employers to provide workers notice after use of the ADS; and requires employers to grant workers a right to appeal the decision. The bill also establishes anti-retaliation protections for workers and provides for enforcement by the Labor Commissioner, affected workers or their representatives, and public prosecutors.

This bill is co-sponsored by the California Federation of Labor Unions AFL-CIO and California Teamsters Public Affairs Council. It is supported by a large coalition of labor organizations and advocacy groups, including the California Nurses Association and the Coalition for Humane Immigrant Rights. Opponents include a broad coalition of industry groups, led by California Chamber of Commerce, and local government organizations.

This bill was previously heard by the Labor Committee, where it passed on a 5-0 vote.

THIS BILL:

1) Defines, among other terms:

   a) "Automated decision system" or "ADS" as any 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. An 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) "Employer" as any person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, benefits, other compensation, hours, working conditions, access to work or job opportunities, or other terms or conditions of employment, of any worker. This shall include all branches of state government, or the several counties, cities and counties, and municipalities thereof, or any other political subdivision of the state, or a school district, or any special district, or any authority, commission, or board or any other agency or instrumentality thereof. "Employer" includes a labor contractor of an employer.

   c) "Employment-related decision" as any decision by an employer that impacts wages, wage setting, benefits, compensation, work hours, work schedule, performance evaluation, hiring, discipline, promotion, termination, job tasks, skill requirements, work responsibilities, assignment of work, access to work and training opportunities, productivity requirements, workplace health and safety, and any other terms or conditions of employment.

   d) "Quota" as a work standard under which an employee is assigned or required to perform at a specified productivity speed, to perform a quantified number of tasks, or to handle or produce a quantified amount of material, within a defined time period and under which the employee may suffer an adverse employment action if they fail to complete the performance standard.

   e) "Worker" as any natural person who is an employee of, or an independent contractor providing service to, or through, a business or a state or local governmental entity in any workplace.

   f) "Worker data" as any information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with, a worker, regardless of how the information is collected, inferred, or obtained.

2) With respect to ADS used for employment-related decisions, other than hiring, requires written notice to be provided to workers who will foreseeably be directly affected by the ADS, or their representatives, that the ADS is used in the workplace in the following circumstances:

   a) At least 30 days before deploying the ADS.

   b) No later than April 1, 2026, if the employer is using an ADS when the bill takes effect.

c) To a new worker within 30 days of hiring the worker if an existing ADS is used when the worker is hired.

d) Within 30 days of any significant updates or changes to the ADS, or a significant change in how the employer uses the ADS.

3) An employer must maintain an updated list of all ADS it uses.

4) Requires that the notice be written in plain language as a separate, stand-alone communication; in the language in which routine communications are provided to workers; and provided via a simple and easy-to-use method, such as an email, hyperlink, or other written format.

5) Requires that the notice contain certain information, including an explanation of the nature, purpose, and scope of decisions for which the ADS will be used; the category and sources of worker input data the ADS will use and how it will be used; any key parameters known to disproportionately affect the output of the ADS; the individuals, vendors, or entities that created and run, manage, or interpret the results of the ADS output; a description of each quota that the ADS is used to set or measure; a description of the worker's right to access information about the employer's use of ADS to make an employment-related decision; a description of the worker's rights to appeal a decision for which the ADS was used and to correct data used by the ADS; and a statement that the employer is prohibited from retaliating against workers for exercising their rights.

6) Requires that, upon receiving a job application, an employer who uses ADS in hiring must notify the applicant that the employer uses ADS in hiring decisions. Such notice may be provided through an automatic reply mechanism or on job postings.

7) Prohibits an employer from using an ADS that does any of the following:

a) Prevents compliance with or results in a violation of any federal, state, or local labor, occupational and safety, employment, or civil rights laws or regulations.

b) Infers certain protected characteristics about a worker.

c) Conducts predictive behavior analysis, defined as any system or tool that predicts or infers a worker's behavior, beliefs, intentions, personality, emotional state, or other characteristics or behavior.

d) Identifies, profiles, predicts, or takes adverse action against a worker for exercising their legal rights, including rights guaranteed by state and federal employment and labor law.

e) Uses or relies on individualized worker data as inputs or outputs to inform compensation, unless the employer can clearly demonstrate that any differences in compensation for substantially similar or comparable work assignments are based on cost differentials in performing the tasks involved, or that the data was directly related to the tasks the worker was hired to perform.

f) Collects data for a purpose not disclosed pursuant to the above-mentioned notice requirements.

g) Makes employment-related decisions using customer ratings as the only or primary input data for an ADS to make employment-related decisions.

8) Requires an employer to allow a worker to access their own worker data collected or used by an ADS and correct errors in any input or output data used by or produced by the ADS or used as corroborating evidence by a human reviewer if the data is the worker's own data.

9) With respect to ADS used to make a discipline, termination, or deactivation decision, provides that the employer must:

a) Not rely primarily on the ADS when making such decision decisions. Employers must use human reviewers to conduct their own investigation and compile corroborating or supporting information for the decision.

b) Provide the affected worker with a written notice at the time the employer informs the worker of the decision. The notice must meet certain requirements and contain certain information, including: the contact information of a human and corroborating evidence found by a human reviewer; information about the use of the ADS and the worker's rights to appeal and correct errors, and the form for the worker to appeal or request more information on the data used in the decision; and that the employer is prohibited from retaliating against the worker for exercising their rights under the bill.

c) Allow the worker who is the subject of a discipline, termination, or deactivation decision made by an ADS to appeal the decision within 30 days of receiving the notice described above. The appeal form must include the option to access to data used as input to or output from the ADS; the option to request access to corroborating or supporting evidence provided by a human reviewer used to make the decision; the worker's reason or justification for an appeal and any evidence to support it; and the option to designate the worker's authorized representative who can also access the data. If the worker requests information related to the ADS or the decision, the worker has an additional 15 days to appeal the decision.

d) Within 14 business days of receiving an appeal form submitted by or on behalf of the worker, the employer must provide the worker with an explanation of the employer's decision on the appeal. The decision must be made by an objective human reviewer who has the authority to overturn the decision and who was not involved in the decision.

e) If the decision is overturned, the employer must, within 21 business days, rectify the decision. For terminated workers, the employer must reinstate the worker to their former position. For disciplined workers, the employer must halt the disciplinary action immediately and erase it from the personnel record.

10) Establishes anti-retaliation protections for workers who attempt to use their rights provided under the bill, as specified.

11) Grants enforcement authority to the Labor Commissioner, or, alternatively, civil actions by workers or their exclusive representatives, or public prosecutors. An employer is subject to $500 per violation and claimants may seek damages, including punitive damages, injunctive relief, and fees and costs.

12) Provides that it does not preempt any city, county, or city and county ordinance that provides equal or greater protection to workers who are covered by the bill.

13) Specifies that an employer who complies with the requirements related to notice and appeal under the bill is not required to comply with any substantially similar notice and appeal provisions related to automated decision systems used in employment-related decisions required under any other state law.

EXISTING LAW:

1) Establishes the California Privacy Protection Agency (Privacy Agency) and vests it with full administrative power, authority, and jurisdiction to implement and enforce the California Consumer Privacy Act of 2018. (Civ. Code § 1798.199.10.)

2) Requires the California Privacy Protection Agency to issue regulations governing access and opt-out rights with respect to businesses' use of automated decisionmaking technology. (Civ. Code § 1798.185.)

3) Establishes the Civil Rights Department, and sets forth its statutory functions, duties, and powers. (Gov. Code § 12930.)

4) Establishes the Fair Employment and Housing Act. (Gov. Code § 12900 *et seq*.) Makes it an unlawful employment practice, unless based upon a bona fide occupational qualification, for an employer to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or discharge the person from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions, or privileges of employment based upon specified characteristics, including race, religious creed, color, national origin, ancestry, physical disability, mental disability, reproductive health decisionmaking, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status. (Gov. Code § 12940.)

5) Requires the California Department of Technology 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. Defines the following 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.)

COMMENTS:

1) **Author's statement**. According to the author:

> Businesses are increasingly using AI to boost efficiency and productivity in the workplace. But there are currently no safeguards to prevent machines from unjustly or illegally impacting workers' livelihoods and working conditions. SB 7 does not prohibit ADS in the workplace, rather it will establish guardrails to ensure that California businesses are not operated by robo bosses, because there will be a human in the loop. AI must remain a tool controlled by humans, not the other way around.

2) **Artificial intelligence.** AI refers to the mimicking of human intelligence by artificial systems such as computers.[1] AI uses algorithms – sets of rules – to transform inputs into outputs. Inputs and outputs can be anything a computer can process: numbers, text, audio, video, or movement. AI is not fundamentally different from other computer functions; unlike other computer functions, however, AI is able to accomplish tasks that are normally performed by humans.

Most modern AI tools are created through a process known as "machine learning." Machine learning involves techniques that enable AI tools to learn the relationship between inputs and outputs without being explicitly programmed.[2] The process of exposing a naïve AI to data is known as "training." The algorithm that an AI develops during training is known as its "model." At its core, training is an optimization problem: machine learning attempts to identify model parameters – weights – that minimize the difference between predicted outcomes and actual outcomes. During training, these weights are continuously adjusted to improve the model's performance by minimizing the difference between predicted outcomes and actual outcomes. Once trained, the model can process new, never-before-seen data.[3]

Models trained on small, specific datasets in order to make recommendations and predictions are sometimes referred to as "predictive AI." This differentiates them from generative AI (GenAI) which are trained on massive datasets in order to produce detailed text, images, audio, and video. When ChatGPT generates text in clear, concise paragraphs, it uses GenAI that is trained on the written contents of the internet.[4] When Netflix suggests content to a viewer, its recommendation is produced by predictive AI that is trained on the viewing habits of Netflix users.[5]

3) **Automated decision systems.** Automated decision systems (ADS) typically use predictive AI to produce simplified outputs – such as scores, classifications, or recommendations – to assist or replace human discretionary decisionmaking.[6] ADS can process enormous datasets, identify

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[1] AB 2885 (Bauer-Kahan, Stats. 2024, Ch. 843) defined the term 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."
[2] IBM, *What is machine learning?*, www.ibm.com/topics/machine-learning.
[3] *Ibid.*
[4] OpenAI, *How ChatGPT and Our Language Models Are Developed*, https://help.openai.com/en/articles/7842364-how-chatgpt-and-our-foundation-models-are-developed.
[5] Netflix, *How Netflix's Recommendations System Works*, https://help.netflix.com/en/node/100639.
[6] Government Code section 11546.45.5(a)(1) defines an ADS 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 used to assist or replace human discretionary decisionmaking and materially impacts natural persons."

hidden patterns, and make decisions with efficiency and scale that vastly exceeds human capabilities. This has led to profoundly beneficial applications and breakthroughs.[7]

But relying on ADS can be hazardous if the systems are not trained carefully or tested thoroughly: the datasets they are trained on are often unrepresentative or contaminated with bias, the inferences ADS draw from those datasets are often inscrutable, and these systems can fail to accurately account for the complexity of human behavior. When deployed without proper oversight in consequential contexts such as employment, housing, healthcare, and criminal justice, the impacts of flawed ADS can be devastating. The following sections examine two key risks associated with ADS: algorithmic discrimination and unsafe or ineffective systems.

Algorithmic discrimination. There is a well-known saying in computer science: "garbage in, garbage out." The performance of an ADS is directly impacted by the quality, quantity, and relevance of the data used to train it.[8] If the data used to train the ADS contain bias, the tool's outputs will be similarly biased, leading to "algorithmic discrimination":

> Algorithmic discrimination occurs when automated systems contribute to unjustified different treatment or impacts disfavoring people based on their race, color, ethnicity, sex (including pregnancy, childbirth, and related medical conditions, gender identity, intersex status, and sexual orientation), religion, age, national origin, disability, veteran status, genetic information, or any other classification protected by law.[9]

Over the past thirty years, several industries and governmental entities have been forced to contend with this problem as they have attempted to introduce ADS into their workflows.

In 2015, Amazon opted against automating their hiring process when they realized that their ADS-enabled system was excluding women from the pool of acceptable candidates because it had been trained to vet applicants by observing patterns in resumés submitted to the company over a 10-year period. Most came from men, a reflection of inequities across the tech industry.[10]

Unsafe or ineffective systems. In addition to discriminatory outcomes, some ADS are unsafe or ineffective regardless of who the subjects of the tool's prediction are. As Princeton researchers Arvind Narayanan and Sayash Kapoor put it bluntly in *AI Snake Oil:* "In contrast to generative AI, predictive AI often does not work at all."[11]

For example, the correlations that machine-learning ADS rely on may have little to do with the attributes they purportedly measure. Some hiring tools trained on videos of successful employees are used to assess the fitness of job applicants who are required to record video responses to specific prompts. Researchers have found that such tools can easily be gamed by making simple changes to the subject's appearance (such as wearing glasses) or to the background of the room

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[7] See e.g. Santariano & Metz, "Using A.I. to Detect Breast Cancer That Doctors Miss," *New York Times* (Mar. 5, 2023), https://www.nytimes.com/2023/03/05/technology/artificial-intelligence-breast-cancer-detection.html.
[8] Rohit Sehgal, "AI Needs Data More Than Data Needs AI," *Forbes* (Oct. 5, 2023), https://www.forbes.com/sites/forbestechcouncil/2023/10/05/ai-needs-data-more-than-data-needs-ai/.
[9] White House Archives, "Algorithmic Discrimination," https://bidenwhitehouse.archives.gov/ostp/ai-bill-of-rights/algorithmic-discrimination-protections/.
[10] Jeffrey Dastin, "Amazon scraps secret AI recruiting tool that showed bias against women," *Reuters* (Oct. 9, 2018), https://www.reuters.com/article/amazoncom-jobs-automation/insight-amazon-scraps-secret-ai-recruiting-tool-that-showed-bias-against-women-idUSL2N1VB1FQ/.
[11] *AI Snake Oil*, *supra*, at p. 9.

(such as adding more books to a bookshelf), leading to increased scores. Journalist Hilke Schellmann found she was able to obtain consistently high scores despite responding to a hiring tool's prompt by reading an irrelevant Wikipedia entry in German.[12]

In another case, "[a] company installed AI-powered cameras in its delivery vans in order to evaluate the road safety habits of its drivers, but the system incorrectly penalized drivers when other cars cut them off or when other events beyond their control took place on the road. As a result, drivers were incorrectly ineligible to receive a bonus."[13]

Especially questionable are ADS that purportedly forecast individual human behavior. A recently released study compiled a list of 47 applications of ADS that use machine learning to predict the future behavior or outcomes for individuals in eight domains: criminal justice, healthcare, welfare, finance, education, workplace, marketing, and recommender systems. The study concluded that such tools frequently fall well short of their purported benefits. The authors argue that developers and deployers of such systems should have the burden of demonstrating that their tools are not harmful.[14] As Narayanan and Kapoor write: "Accurately predicting people's social behavior is not a solvable technology problem and determining people's life chance on the basis of inherently faulty predictions will always be morally problematic."[15]

4) **Robot bosses**. Employers are increasingly using ADS to manage workforce operations, including hiring, setting schedules, assigning tasks, and tracking performances. Three key functions are 1) ranking workers, 2) predicting their future behavior or characteristics, and 3) giving directions to workers.

ADS tools that rank workers do so by scoring or comparing their performance, behavior, or traits using metrics such as productivity, accuracy, manager evaluations, and customer ratings. These systems often generate alerts or recommendations for employers, such as coaching prompts and suggested interventions. According to the UC Berkeley Labor Center, examples of these tools include:

- *Centrical:* A platform that collects real-time data on worker task completion, accuracy, training progress, and sales, and generates worker rankings, gamified scoring systems, and performance dashboards for managers.

- *WorkTime:* A platform that monitors office workers' computer activity and generates productivity and distraction score rankings, with team and individual performance comparisons displayed on leaderboards or manager dashboards.

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[12] *See* Hilke Schellmann, *The Algorithm: How AI Decides Who Gets Hired, Monitored, Promoted, and Fired and Why We Need to Fight Back Now* (1st ed. 2024).
[13] *Blueprint, supra,* p. 17.
[14] Angelina Wang et al. 2023. "Against predictive optimization: On the legitimacy of decision-making algorithms that optimize predictive accuracy." In Proceedings of the 2023 ACM Conference on Fairness, Accountability, and Transparency (Chicago, IL, USA: ACM, 2023), 626.
[15] *AI Snake Oil, supra,* at p 15.

- *Harver:* A hiring platform that uses behavioral and personality assessments to score and rank job candidates by predicted fit, enabling employers to set cutoff thresholds and identify top job matches.[16]

ADS tools that make predictions about worker behavior or characteristics use personal information to identify patterns and correlations in datasets about other workers to predict things such as performance, ability to work on teams, stress tolerance, likelihood of joining a union, or becoming pregnant. For example, Perceptryx "analyzes employee surveys and HR data to predict engagement, retention risk, and vulnerability to union organizing, using tools like a Union Vulnerability Index to flag high-risk groups or locations and inform employer response strategies."[17]

ADS tools that give workers directions about their job tasks use data from workplace surveillance devices to deliver real-time instructions on which tasks to perform and in what order. Examples, as described by the UC Berkeley Labor Center, include:

- *Amadeus HoTSOS:* A system used in hotels to direct housekeeping, maintenance, and guest service tasks. The platform sends real-time instructions to workers based on guest check-ins, service requests, or sensor data. As conditions shift, the system reorders tasks and reassigns them among staff.

- *Trackforce:* A system used in the security sector to dispatch real-time instructions to security guards. It assigns patrols, alarm responses, or site-specific checks based on live inputs like incidents or visitor activity. As new issues arise, the system updates workflows, verifies task completion order, and alerts supervisors to delays or deviations.[18]

The bill's sponsors write:

> The pursuit of efficiency by a machine can do serious harm to workers. Eliminating routine tasks and increasing work speeds can lead to fatigue, burn-out, excessive injuries, and other harm, as seen in Amazon warehouses. Amazon uses surveillance and algorithmic management to push workers to work harder, faster, and longer–often automatically firing them if they violate set rules.
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> In addition to swiftly firing a worker, ADS can also include bias and potentially discriminate based on the pre-set rules that are deemed proprietary to conduct predictive behavior analysis to prevent "undesirable worker outcomes." For example, Teramind offers employers with advisory service algorithms to detect potential employee fraud by analyzing information such as a worker's debt history or their spending habits in order to flag a worker as being susceptible to committing fraud and stealing from the company.

5) **Blueprint for an AI Bill of Rights.** In 2022, the White House Office of Science and Technology Policy released the *Blueprint for an AI Bill of Rights*, which identifies five principles

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[16] Annette Bernhardt & Lisa Krege, "Electronic Monitoring and Automated Decision Systems: Frequently Asked Questions*,"* UC Berkeley Labor Center (May 2025), p. 2, https://laborcenter.berkeley.edu/wp-content/uploads/2025/05/Electronic-Monitoring-and-Automated-Decision-Systems-FAQ.pdf.
[17] *Id.* at p. 3.
[18] *Ibid.*

that should "guide the design, use, and deployment of automated systems to protect the American public in the age of artificial intelligence."[19] As summarized in the *Blueprint*, the principles are as follows:

- *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. Systems should undergo pre-deployment testing, risk identification and mitigation, and ongoing monitoring that demonstrate they are safe and effective based on their intended use, mitigation of unsafe outcomes including those beyond the intended use, and adherence to domain-specific standards. Outcomes of these protective measures should include the possibility of not deploying the system or removing a system from use. Automated systems should not be designed with an intent or reasonably foreseeable possibility of endangering your safety or the safety of your community. They should be designed to proactively protect you from harms stemming from unintended, yet foreseeable, uses or impacts of automated systems. You should be protected from inappropriate or irrelevant data use in the design, development, and deployment of automated systems, and from the compounded harm of its reuse. Independent evaluation and reporting that confirms that the system is safe and effective, including reporting of steps taken to mitigate potential harms, should be performed and the results made public whenever possible.

- *Algorithmic Discrimination Protections*: You should not face discrimination by algorithms and systems should be used and designed in an equitable way. . . . 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. Independent evaluation and plain language reporting in the form of an algorithmic impact assessment, including disparity testing results and mitigation information, should be performed and made public whenever possible to confirm these protections.

- *Data Privacy*: [. . .] Designers, developers, and deployers of automated systems should seek your permission and respect your decisions regarding collection, use, access, transfer, and deletion of your data in appropriate ways and to the greatest extent possible; where not possible, alternative privacy by design safeguards should be used [. . .] Enhanced protections and restrictions for data and inferences related to sensitive domains, including health, work, education, criminal justice, and finance, and for data pertaining to youth should put you first. In sensitive domains, your data and related inferences should only be used for necessary functions, and you should be protected by ethical review and use prohibitions. [. . .]

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[19] The White House, *Blueprint for an AI Bill of Rights*, (Oct. 2022), p. 14, https://bidenwhitehouse.archives.gov/ostp/ai-bill-of-rights/ (*Blueprint*). Despite the use of the term "AI" in its title, the *Blueprint* focuses on ADS.

- *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. [. . .]

The Legislature, via SCR 17 (Dodd, 2023), adopted these principles. These principles inform efforts to regulate ADS, including in this bill and other related bills such as AB 1018 (Bauer-Kahan, 2025).

6) **What this bill would do.** This bill would establish a comprehensive set of requirements governing the use of ADS in the workplace by requiring human oversight and independent corroboration when employers use ADS for decisions that impact workers' livelihoods. Under the bill, "employers" means any person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, benefits, other compensation, hours, working conditions, access to work or job opportunities, or other terms or conditions of employment, of any worker. Employers include labor contractors of employers. "Workers" includes employees and independent contractors. Key aspects of the bill follow.

Pre-use notice. With respect to ADS used for hiring decisions, the bill requires employers to notify an applicant that the employer uses ADS in hiring decisions upon receiving a job application. Such notice may be provided through an automatic reply mechanism or on a job posting.

With respect to ADS used for all other employment-related decisions, the bill requires that notice with specified information be provided to workers who will foreseeably be directly affected, or their representatives, in the following circumstances:

- At least 30 days before deploying the ADS.

- No later than April 1, 2026, if the employer is using an ADS when the bill takes effect.

- To a new worker within 30 days of hiring the worker if an existing ADS is used when the worker is hired.

- Within 30 days of any significant updates or changes to the ADS, or a significant change in how the employer uses the ADS.

"Employment-related decision" means, in effect, any decision by an employer that impacts any terms or conditions of employment, including several enumerated examples, such as wages, work hours and schedule, job tasks, productivity requirements, and workplace health and safety. Information that must be in the notice includes explanations of how the ADS is used, how it works, and a description of the worker's rights under the bill.

Prohibited uses of ADS. The bill prohibits an employer from using an ADS that does any of the following:

- Prevents compliance with or results in a violation labor, occupational and safety, employment, or civil rights laws or regulations.

- Infers certain protected characteristics about a worker.

- Conducts predictive behavior analysis – defined as any system or tool that predicts or infers a worker's behavior, beliefs, intentions, personality, emotional state, or other characteristics or behavior – on a worker.

- Identifies, profiles, predicts, or takes adverse action against a worker for exercising their legal rights.

- Uses or relies on individualized worker data as inputs or outputs to inform compensation, unless the employer can clearly demonstrate that any differences in compensation for substantially similar or comparable work assignments are based on cost differentials in performing the tasks involved, or that the data was directly related to the tasks the worker was hired to perform.

- Collects worker data for a purpose not disclosed pursuant to the above-mentioned notice requirements.

- Makes employment-related decisions using customer ratings as the only or primary input data for an ADS to make employment-related decisions.

Right to access and correct data. Additionally, the bill requires an employer to allow a worker to access their own worker data collected or used by an ADS and correct errors in any input or output data used by or produced by the ADS or used as corroborating evidence by a human reviewer.

Provisions governing discipline, termination, or deactivation decisions. With respect to decisions involving discipline, termination, or deactivation, the bill requires employers to:

- Refrain from relying primarily on the ADS when making such decisions. Employers must use human reviewers to conduct their own investigation and compile corroborating or supporting information for the decision.

- Provide the affected worker with a written notice at the time the employer informs the worker of the decision and provides specified information relating to their right to appeal and correct.

- Allow the worker who is the subject of a discipline, termination, or deactivation decision made by an ADS to appeal the decision within 30 days of receiving the notice described above. If the worker requests information related to the ADS or the decision, the worker has an additional 15 days to appeal the decision.

- Provide the worker with an explanation of the employer's decision on the appeal within 14 business days of receiving the worker's appeal form. The decision must be made by an objective human reviewer who has the authority to overturn the decision and who was not involved in the decision. If the decision is overturned, the employer must, within 21 business day, rectify the decision. For terminated workers, the employer must reinstate the worker to their former position. For disciplined workers, the employer must halt the disciplinary action immediately and erase it from the personnel record.

Anti-retaliation provisions and enforcement. The bill establishes anti-retaliation protections for workers who attempt to use their rights provided under the bill, as specified. The bill grants enforcement authority to the Labor Commissioner, or, alternatively, civil actions by workers or their exclusive representatives, or public prosecutors. An employer is subject to $500 per violation and claimants may seek damages, including punitive damages, injunctive relief, and fees and costs.

7) **Opposition concerns**. Opponents include a broad coalition of industry groups, led by California Chamber of Commerce. They argue:

> The bill broadly targets businesses of all sizes, across every industry, and regulates even low-risk applications of automated decision systems (ADS) or where there is human involvement in a decision in addition to the ADS. Many of the bill's requirements are onerous and impractical. SB 7 would impose significant compliance burdens and any misstep would lead to costly litigation for even the smallest of employers. Because of SB 7's broad application, an economic analysis by Encina Advisors, LLC estimates that if even just a fraction of employees utilized the bill's appeals process or request to access data that the annual increased administrative costs to California businesses would be more than $1 billion.
>
> While we appreciate concerns over employees being disciplined or terminated solely based on automated tools, SB 7 is not tailored to those scenarios and does not consider the benefits of ADS technology. Unfortunately, even with recent amendments, we believe SB 7 will have an undesired chilling effect on the technology and make it that much harder to develop the very tools that can help combat bias in decision making.

A selection of key issues for opponents, and sponsors' responses, follow:

- *Notice requirements are excessive:* Opponents argue that the broad definition of "employment-related decisions" will result in a high volume of notices, which, in opponents' view, will dilute the overall effectiveness of notice requirements. They also argue that employers may not necessarily know all of the information required in the notice, which could prove especially burdensome for small businesses.

    - The sponsors respond: "Employers are only required to provide a single notice when an ADS, that impacts workers, is implemented in the workplace. All other notifications would be limited to decisions related to discipline or termination, decisions that ultimately do not occur frequently, and which a worker deserves to

know whether an ADS was utilized. Additionally, pre-use notification notices require information such as how an employer will use the ADS, what type of worker information will be used by the ADS, and whether worker productivity quotas will be set by or altered by the system – obtainable information that an employer who has the resources to purchase an ADS should have the ability to provide."

- *Certain behavioral prediction ADS should be allowed:* Opponents argue that ADS should be allowed for certain predictive purposes, such as assessing a person's risk of engaging in unlawful activities.

    - The sponsors respond: "Predictive behavior analysis is a pseudo-scientific method of determining future outcomes. An employer using an ADS to predict whether a worker will engage in unlawful activities is riddled with potentially discriminatory assumptions such as where a worker lives or their socioeconomic background – all of which can be considered by an ADS when predicting future behavior."

- *The rights to access and correct information are overly burdensome:* Opponents argue the right to access information could result in a high volume of documents and may be intertwined with information of other individuals or information that is otherwise confidential or proprietary.

    - The sponsors respond: "The ability to appeal a decision is limited to only firing or disciplinary decisions. A worker is only likely to request access or correction of data in those limited instances, thus reducing the burden on employers."

- *Some ADS should be allowed to "primarily" make the decision.* Opponents assert that in certain scenarios, such as those involving safety requirements, ADS can detect workplace violations and that it is overly cumbersome to independently corroborate the violation before undertaking disciplinary measures. As for the right to correct, opponents argue the bill is unclear as to what this right entails.

    - The sponsors respond: "SB 7 allows an employer to use an ADS for less consequential decisions such as setting a worker's schedule. However consequential decisions, such as firing and disciplinary decisions, impact the livelihood of a worker to a degree that warrants the need for providing easily accessible information - such as work product, evaluations, and peer reviews – to prevent unjustified disciplinary decisions. Regarding the ability to correct, many employers use productivity trackers such as key stroke trackers to monitor workers. If a worker doesn't meet a certain productivity quota due to an emergency, the worker should have the ability to clarify why that quota was not met."

- *The right of appeal should be omitted:* Opponents argue that the right of appeal is not necessary to ensuring a human is in the loop, that it undermines the principle of "at-will" employment, and would "grind workplaces to a halt and create unnecessary hurdles to everyday decisions."

- The sponsors respond: "The right to appeal is essential to prevent confirmation bias and ensure proper corroborating evidence was gathered when the employer made the firing or disciplinary decision. An ADS can be used to make swift decisions at a massive scale. Providing workers with an opportunity to appeal serves as a necessary backstop to prevent abusive uses of this technology."

ARGUMENTS IN SUPPORT: A broad coalition of supporters, including co-sponsors California Federation of Labor Unions and California Teamsters Public Affairs Council, write:

> Employers' drive to increase worker productivity and lower costs is nothing new. In the early 1900s, Frederick Taylor introduced scientific management, often known as Taylorism, into plants and factories. His method closely monitored workers to maximize productivity through speeding up, automating, and tightly controlling worker movements using a stopwatch. In 1913, Henry Ford built upon Taylorism to introduce the assembly line in auto plants to further speed up and deskill work.
>
> What is different today is the power, speed, and secrecy of emerging workplace technologies such as automated decision-making systems (ADS), often used for algorithmic or automated management. ADS encompasses any system that uses automated processing, like algorithms or machine learning, to make decisions about an individual without significant human involvement. The systems can be used to outsource and automate decisions ranging from task and schedule assignments to discipline and termination decisions. What that means is that machines are now managing, disciplining, and firing workers often driving humans to work like machines.
>
> Employer use of ADS in the workplace is widespread. One report from a national survey in 2024 found that 40 percent of workers experience some form of automated task management. However, Black and Latino workers report higher rates of automated management technologies in their workplace, with 63 percent of Black and 52 percent of Latino workers versus only 35 percent of White workers subject to automated management.
>
> The pursuit of efficiency by a machine can do serious harm to workers. Eliminating routine tasks and increasing work speeds can lead to fatigue, burn-out, excessive injuries, and other harm, as seen in Amazon warehouses. Amazon uses surveillance and algorithmic management to push workers to work harder, faster, and longer–often automatically firing them if they violate set rules.
>
> In addition to swiftly firing a worker, ADS can also include bias and potentially discriminate based on the pre-set rules that are deemed proprietary to conduct predictive behavior analysis to prevent "undesirable worker outcomes." For example, Teramind, offers employers with advisory service algorithms to detect potential employee fraud by analyzing information such as a worker's debt history or their spending habits in order to flag a worker as being susceptible to committing fraud and stealing from the company.

TechEquity Action writes:

> Automated Decision Systems (ADS) are already being used to aid or make decisions about the most important areas of everyday people's lives. These systems affect workers' wages and working conditions, race and gender equity, job security, health and safety, their right to organize, and autonomy and dignity. The imbalance of power between workers and

employers makes the regulation of ADS urgent and critical. Without proper guardrails, this technology can enforce and exacerbate existing harms and biases at a speed and scale never seen before.

At TechEquity, we have conducted participatory research with contract workers in the tech industry. Many of these workers are the humans behind AI—doing everything from training search algorithms, to moderating content online, to cleaning and labeling data that power AI systems. While they build the technology, they are also managed through technologies like ADS that control their workload, performance ratings, and at times, their pay. In repeated interviews, we heard workers share similar patterns where they worked for a tech company through a third party employer and their work product was reviewed and assessed by an algorithmic or automated process. In some instances, that automated process denied workers pay, deemed their work product insufficient or low quality, or created a quota system for work production based on unknown information that was often unsustainable for workers.

ARGUMENTS IN OPPOSITION: A broad coalition of opponents, led by California Chamber of Commerce, writes:

SB 7's ADS Pre-Use and Post-Use Notice Requirements Raise Several Concerns

As a general matter, we do not object to the concept of disclosing information about the use of ADS when that ADS can result in employee discipline or termination. However, we have concerns with the breadth of the notices required under SB 7. Examples include:

- SB 7's definition of ADS includes language that we have consistently argued is too broad. It includes tools that "assist" human decision making with regard to any "employment-related decision," which includes everything from simple scheduling software to task allocation. Therefore, SB 7 would result in such a high volume of notices that their usefulness would be diminished. For that reason, required notices should be limited to information about consequential, high-risk decisions such as termination or discipline that directly impact the employee.

- An employer may not know all of the information required under proposed Section 1522, especially if they are a small business. For example, an employer may not know what logic is used in the ADS or the names of all individuals, vendors, or entities that created the ADS unless that information is provided by the developer. Even if an employer can communicate with the developer, the developer or their vendors may consider that information proprietary.

- Proposed Section 1522's requirements will be overly complex for many small businesses and some businesses may not be aware of the information required such as the individuals who created the ADS. Small businesses often do not have an HR department or legal counsel. If they use anything like a scheduling software or resume screening software, they would be covered under SB 7. Not only would it be difficult for them to track down, but to spend the time synthesizing such complex information would be a significant burden.

- Regarding the pre-use notices for applicants, we believe the statute should also allow for notice via information on the employer's website or in a job posting. As the language presently reads, the notice is required if the employer uses ADS in hiring

decisions at all, regardless of whether ADS is used on that specific applicant. If someone applies under a non-formal setting such as sending their resume to a friend at a company that uses ADS, there would be an obligation to respond with this notice. Therefore, it makes sense to provide several options for notice to applicants.

- As explained below, we have concerns with the vaguely referenced right to "access" or "correct" data as outlined in the post-use notice requirements.

SB 7's Ban on Certain ADS Uses Will Have Unintended Consequences

Proposed Section 1527(c)(1) provides that an employer cannot make discipline, termination, or deactivation decisions that rely "primarily" on ADS. Consider that there are many scenarios in which ADS is used for safety purposes. For example, some tools can detect when an employee is not utilizing proper PPE or other safety measures and reports that information internally. Again, while we are sympathetic to not terminating someone solely based on ADS output, SB 7 would limit an employer's ability to promptly address issues. An employer would never be allowed to discipline an employee for their actions unless they can independently corroborate the violations via human supervision and an extensive investigation under (c)(2), resulting in safety concerns.

Another example would be work productivity. Unless a supervisor is micro-managing every one of their employees, many workplaces will rely "primarily" on productivity-type tracking that may fall under the definition of ADS. It is not practical to have every employee observed at all times by a supervisor. Similarly, the ban on using customer ratings as a "primary" input data to make an employment decision does not always make sense. An employee who is consistently receiving complaints from customers is likely to receive a disciplinary action. There are scenarios where a manager or someone else is not always present with an employee and therefore must primarily rely on data like consumer ratings or reviews. Relying "primarily" on such data is different than relying "solely" on that data and the bill should account for these scenarios.

Further, there is concern about a complete ban of the use of ADS to predict behaviors. For example, financial institutions sometimes use ADS for predictive purposes for assessing risk of fraud or other unlawful activities. Any security breaches or fraud would have detrimental impacts on consumers. ADS tools help protect against those types of activities. Also, it should be noted that proposed Section (a)(3) does not specifically say that it applies only to workers and not consumers. We assume the intent is that it applies only to workers, but it is unclear.

As drafted, proposed Section (a)(5) is vague and it is unclear which scenarios it is trying to prevent. We want to ensure, for example, that it would not prohibit situations like rewarding top performers based on productivity. To the extent this is related to paying workers less based on ADS outputs unrelated to their job performance, California has existing laws that already cover discrimination of this type, such as FEHA or the Equal Pay Act.

SB 7's Right of Access, Correction, and Appeal is Problematic

SB 7 allows a worker to access and correct worker data collected by an ADS. Given the breadth of the definitions in the bill, the access requirement could result in a high volume of documents and may necessarily include information about other employees and/or

confidential, proprietary, or privileged information. It is also unclear what it means to "correct" information. For example, the CCPA contains clear guidelines regarding how and under what circumstances a consumer can request access to data or correct inaccurate data. Importantly, the CCPA and accompanying regulations include exceptions as well as make clear that data should only be provided "upon receipt of a verifiable consumer request from the consumer" to prevent bad actors from obtaining private data. This is also a reason why an "authorized representative" should not be in the definition of "worker" and given this right to access other people's information.

Regarding the right to appeal, we do not think the appeal is necessary if the goal of the bill is to ensure that there is a human in the loop on employment decisions. To allow every disciplinary decision or termination to be subject to appeal when those must have some human involvement in the first place is contrary to at-will employment, a cornerstone of California employment law. And, as written, the appeal right applies even where ADS was hardly used at all in the decision-making process. This would grind workplaces to a halt and create unnecessary hurdles to everyday decisions. Further, it is unrealistic that small businesses can have someone who was not involved at all in the original decision evaluate the appeal. A small restaurant with just a few employees likely has one manager who may also be the owner. That person would be involved in all decisions. Under SB 7, they would have to contract out with someone to review the appeal, which would be a significant cost.

Independent Contractors Should Not Be Included in The Definition of "Worker"

The bill's definition of "worker" includes independent contractors, which should be removed from the bill. Contractors are often limited-term workers who are performing a specific job for a company. Their contract will dictate the terms of that job, under what circumstances the relationship may be terminated, and more. They do not need to receive disclosures or have a lengthy appeals process as outlined in SB 7. It does not make sense to include them in this bill.

Proposed Section 1532(d) is Vague

Proposed section 1532(d) describes where a civil action under SB 7 may be brought. It includes a provision that states the civil action may be filed "wherein the person resides or transacts business." It is unclear who a "person" is under this subdivision and appears to be more broad than existing California Code of Civil Procedure Section 395 regarding proper venue. We want to ensure that this provision does not broaden the scope of where civil actions can be filed beyond existing venue rules so as not to encourage forum shopping.

A coalition of local government organizations, in opposition, writes:

Local governments are responsible for operating and securing critical infrastructure, jails, hospitals, and police and fire departments. It is not difficult to envision scenarios where the requirements of SB 7 would impede local government operations. For example, as the definitions are sweeping, health care providers using ADS for basic functions such as scheduling, billing, clinical recommendations and workplace safety initiatives, would be severely limited in doing so. This significant shift will lead to increased costs to public health care providers and create disparate outcomes across patients and providers, without a meaningful reason to do so. In addition, many counties rely on ADS to manage the daily scheduling and operations of public safety personnel. Meeting the requirements of this bill

may prove challenging—particularly given the current timelines, the complexity of overlapping laws, and the potential need for costly system modifications. These challenges could place a significant strain on already limited county budgets. As a result, counties may be forced to temporarily rely on alternative— and potentially less efficient—methods to carry out routine tasks while working toward full compliance

For public employers with represented workforces, use of technology tools is often bargained between employees and public employers based on local conditions, security needs, and the concerns of the public workforce. State law already prohibits public employers from using workplace technology tools like ADS to deter or discourage union membership. Specifically, Government Code § 3550 provides that a public employer shall not deter or discourage public employees, or applicants to be public employees, from becoming or remaining members of an employee organization. Section 3551.5 imposes significant penalties for violations of § 3550 and grants employee organizations standing to bring the claims. Because of the existing protections already afforded to public employees, we have concerns regarding the likelihood of overlapping or conflicting requirements introduced by this bill that will create uncertainty and liability for local agencies.

Put simply, for public employers, the burdens potentially imposed by this bill exceed any need. We urge the author to amend the bill to remove public agencies entirely from its provisions.

REGISTERED SUPPORT / OPPOSITION:

Support

California Federation of Labor Unions, Afl-cio (Co-Sponsor)
California Teamsters Public Affairs Council (Co-Sponsor)
Afscme California
California Alliance for Retired Americans (CARA)
California Coalition for Worker Power
California Employment Lawyers Association
California Federation of Teachers Afl-cio
California Immigrant Policy Center
California Nurses Association
California Professional Firefighters
California School Employees Association
California State Legislative Board of the Smart - Transportation Division
California State University Employees Union (CSUEU)
Center for Democracy and Technology
Center for Inclusive Change
Center on Policy Initiatives
Coalition for Humane Immigrant Rights (CHIRLA)
Coalition of Black Trade Unionists, San Diego County Chapter
Communications Workers of America, District 9
Community Agency for Resources, Advocacy and Services
Consumer Federation of California
Culver City Democratic Club
International Cinematographers Guild Local 600

International Lawyers Assisting Workers (ILAW) Network
Los Angeles Alliance for a New Economy (LAANE)
Los Angeles County Democratic Party
National Employment Law Project
National Union of Healthcare Workers (NUHW)
Northern California District Council of the International Longshore and Warehouse Union (ILWU)
Pillars of the Community
Powerswitch Action
Rise Economy
San Diego Black Workers Center
San Francisco Women's Political Committee
Santa Monica Democratic Club
Seiu California State Council
Surveillance Resistance Lab
Techequity Action
The Workers Lab
Unite Here, Local 11
United Food and Commercial Workers, Western States Council
Warehouse Worker Resource Center
Workers' Algorithm Observatory
Working Partnerships USA
Worksafe

Oppose

Acclamation Insurance Management Services
Allied Managed Care
Associated General Contractors
Associated General Contractors of California
Associated General Contractors-san Diego Chapter
Association of California Healthcare Districts (ACHD)
Brea Chamber of Commerce
Burbank Chamber of Commerce
California Apartment Assocation
California Association of Winegrape Growers
California Chamber of Commerce
California Credit Union League
California Grocers Association
California Hospital Association
California League of Food Producers
California Manufacturers and Technology Association
California Retailers Associaiton
California Retailers Association
California Special Districts Association
California State Association of Counties (CSAC)
Carlsbad Chamber of Commerce
Coalition of Small and Disabled Veteran Businesses
Corona Chamber of Commerce

Flasher Barricade Association
Gilroy Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Riverside Chambers of Commerce
Insights Association
Lake Elsinore Valley Chamber of Commerce
Long Beach Area Chamber of Commerce
Mission Viejo Chamber of Commerce
Murrieta Wildomar Chamber of Commerce
Oceanside Chamber of Commerce
Orange County Business Council
Pacific Association of Building Service Contractors
Public Risk Innovation, Solutions, and Management (PRISM)
Rancho Cucamonga Chamber of Commerce
Rancho Mirage Chamber of Commerce
Roseville Area Chamber of Commerce
Rural County Representatives of California (RCRC)
San Diego Regional Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Santee Chamber of Commerce
Security Industry Association
Southwest California Legislative Council
Technet
Torrance Area Chamber of Commerce
Urban Counties of California (UCC)
Valley Industry and Commerce Association
Western Car Wash Association

Analysis Prepared by: Josh Tosney / P. & C.P. / (916) 319-2200