

HOUSE No. 4024

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, August 3, 2023.

The committee on Advanced Information Technology, the Internet and Cybersecurity to whom was referred the petition (accompanied by bill, Senate, No. 33) of Jason M. Lewis and Michael O. Moore for legislation to establish a commission on automated decision-making by government in the commonwealth; and the petition (accompanied by bill, House, No. 64) of Sean Garballey, Simon Cataldo and Vanna Howard for legislation to establish a commission (including members of the General Court) relative to state agency automated decision-making, artificial intelligence, transparency, fairness, and individual rights, reports recommending that the accompanying bill (House, No. 4024) ought to pass.

For the committee,

TRICIA FARLEY-BOUVIER.

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**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act establishing a commission on automated decision-making by government in the Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. (a) As used in this section, the following words shall, unless the context
2 clearly requires otherwise, have the following meanings:

3 “Algorithm”, a specific procedure, set of rules, or order of operations designed to solve a
4 problem or make a calculation, classification, or recommendation.

5 “Artificial intelligence”, computerized methods and tools, including but not limited to
6 machine learning and natural language processing, that act in a way that resembles human
7 cognitive abilities when it comes to solving problems or performing certain tasks.

8 “Automated decision system”, any computer program, method, statistical model, or
9 process that aims to aid or replace human decision-making using algorithms or artificial
10 intelligence. These systems can include analyzing complex datasets about human populations
11 and government services or other activities to generate scores, predictions, classifications, or
12 recommendations used by agencies to make decisions that impact human welfare.

13 “Executive agency” a state agency within the office of the governor

14 “Identified group characteristic”, age, race, creed, color, religion, national origin, gender,
15 disability, sexual orientation, marital status, veteran status, receipt of public assistance, economic
16 status, location of residence, or citizenship status.

17 “Source code”, the structure of a computer program that can be read and understood by
18 people.

19 “Training data”, the data used to inform the development of an automated decision
20 system and the decisions or recommendations it generates.

21 (b) Notwithstanding any special or general law to the contrary, there shall be a special
22 legislative commission established pursuant to section 2A of chapter 4 of the General Laws to
23 conduct a study on the use of automated decision systems by executive agencies.

24 The commission shall consist of 11 members: 2 of whom shall be the chairs of the joint
25 committee on advanced information technology the internet and cybersecurity, who shall serve
26 as co-chairs; 1 of whom appointed by the speaker of the house of representatives; 1 of whom
27 shall be appointed by the president of the senate; 1 of whom shall be the secretary of the
28 executive office of technology services and security, or a designee; 1 of whom shall be the
29 attorney general or a designee; 1 of whom shall be the executive director of the American Civil
30 Liberties Union of Massachusetts or a designee; 2 of whom shall be appointed by the Governor
31 and shall work at academic institutions in the Commonwealth in the field of (i) artificial
32 intelligence and machine learning, (ii) data science and information policy, (iii) social
33 implications of artificial intelligence and technology; or (iv) technology and the law; 1 of whom

34 shall be a member of the Massachusetts High Technology Council; and 1 of whom shall be a
35 member of the Massachusetts Technology Collaborative.

36 (c) . The commission shall study the use of automated decision systems by executive
37 agencies and make recommendations to the legislature regarding appropriate regulations, limits,
38 standards, and safeguards. The commission shall:

39 (i) survey the current use of automated decision systems by executive agencies and the
40 purposes for which such systems are used, including but not limited to:

41 (A) the principles, policies, and guidelines adopted by executive agencies to inform the
42 procurement, evaluation, and use of automated decision systems, and the procedures by which
43 such principles, policies, and guidelines are adopted;

44 (B) the training executive agencies provide to individuals using automated decision
45 systems, and the procedures for enforcing the principles, policies, and guidelines regarding their
46 use;

47 (C) the manner by which executive agencies validate and test the automated decision
48 systems they use, and the manner by which they evaluate those systems on an ongoing basis,
49 specifying the training data, input data, systems analysis, studies, vendor or community
50 engagement, third-parties, or other methods used in such validation, testing, and evaluation;

51 (D) the manner and extent to which executive agencies make the automated decision
52 systems they use available to external review, and any existing policies, laws, procedures, or
53 guidelines that may limit external access to data or technical information that is necessary for
54 audits, evaluation, or validation of such systems; and

55 (E) procedures and policies in place to protect the due process rights of individuals
56 directly affected by the use of automated decision systems;

57 (ii) consult with experts in the fields of machine learning, algorithmic bias, algorithmic
58 auditing, and civil and human rights;

59 (iii) examine research related to the use of automated decision systems that directly or
60 indirectly result in disparate outcomes for individuals or communities based on an identified
61 group characteristic;

62 (iv) conduct a survey of technical, legal, or policy controls to improve the just and
63 equitable use of automated decision systems and mitigate any disparate impacts deriving from
64 their use, including best practices, policy tools, laws, and regulations developed through research
65 and academia or proposed or implemented in other states and jurisdictions;

66 (v) examine matters related to data sources, data sharing agreements, data security
67 provisions, compliance with data protection laws and regulations, and all other issues related to
68 how data is protected, used, and shared by executive agencies using automated decision systems;

69 (vi) examine any other opportunities and risks associated with the use of automated
70 decision systems.

71 (vii) evaluate evidence based best practices for the use of automated decision systems;

72 (viii) make recommendations for regulatory or legislative action, if any;

73 (ix) make recommendations about if and how existing state laws, regulations, programs,
74 policies, and practices related to the use of automated decision systems should be amended to
75 promote racial and economic justice, equity, fairness, accountability, and transparency;

76 (x) make recommendations for the development and implementation of policies and
77 procedures that may be used by the state for the following purposes:

78 (A) to allow a person affected by a rule, policy, or action made by, or with the assistance
79 of, an automated decision system, to request and receive an explanation of such rule, policy, or
80 action and the basis therefor;

81 (B) to determine whether an automated decision system disproportionately or unfairly
82 impacts a person or group based on an identified group characteristic;

83 (C) to determine prior to or during the procurement or acquisition process whether a
84 proposed agency automated decision system is likely to disproportionately or unfairly impact a
85 person or group based on an identified group characteristic;

86 (D) to address instances in which a person or group is harmed by an agency automated
87 decision system if any such system is found to disproportionately impact a person or group on
88 the basis of an identified group characteristic.

89 (d) The commission shall submit its report and recommendations, including any proposed
90 legislation, with the governor, the clerks of the house of representatives and the senate, and the
91 joint committee on advanced information technology and cybersecurity on or before December
92 31, 2023.