

118TH CONGRESS
2D SESSION

H. R. 7621

To prohibit certain uses of automated decision systems by employers, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2024

Ms. BONAMICI (for herself and Mr. DELUZIO) introduced the following bill;
which was referred to the Committee on Education and the Workforce,
and in addition to the Committees on House Administration, and Over-
sight and Accountability, for a period to be subsequently determined by
the Speaker, in each case for consideration of such provisions as fall with-
in the jurisdiction of the committee concerned

A BILL

To prohibit certain uses of automated decision systems by
employers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “No Robot Bosses Act”.

5 **SEC. 2. DEFINITIONS.**

6 For purposes of this Act:

7 (1) **AUTOMATED DECISION SYSTEM.**—

1 (A) IN GENERAL.—The term “automated
2 decision system” means a system, software, or
3 process that—

4 (i) uses computation, in whole or in
5 part, to determine outcomes, make or aid
6 decisions (including through evaluations,
7 metrics, or scoring), inform policy imple-
8 mentation, or collect data or observations,
9 including such a system, software, or proc-
10 ess derived from machine learning, statis-
11 tics, or other data processing or artificial
12 intelligence techniques; and

13 (ii) is not passive computing infra-
14 structure.

15 (B) PASSIVE COMPUTING INFRASTRUC-
16 TURE.—For purposes of this paragraph, the
17 term “passive computing infrastructure” means
18 any intermediary technology that does not influ-
19 ence or determine the outcome of a decision,
20 make or aid in a decision (including through
21 evaluations, metrics, or scoring), inform policy
22 implementation, or collect data or observations,
23 including web hosting, domain registration, net-
24 working, caching, data storage, or cybersecu-
25 rity.

1 (2) AUTOMATED DECISION SYSTEM OUTPUT.—

2 The term “automated decision system output”
3 means any information, assumption, prediction,
4 score, recommendation, decision, evaluation, metric,
5 conclusion, inference, or profile generated by an
6 automated decision system.

7 (3) CANDIDATE.—The term “candidate”, with
8 respect to an employer, means an individual who ap-
9 plies, or applied, to be employed by, or otherwise
10 perform work for remuneration for, the employer.

11 (4) COVERED INDIVIDUAL.—The term “covered
12 individual”, with respect to an employer, means an
13 individual—

14 (A) who is employed by, or otherwise per-
15 forming work for remuneration for, the em-
16 ployer, including such an individual who is—

17 (i) any individual performing work for
18 remuneration for an employer described in
19 clauses (i)(I) and (ii) of paragraph (6)(A);

20 (ii) any individual performing work
21 for remuneration for an entity described in
22 paragraph (6)(A)(i)(II);

23 (iii) any individual performing work
24 for remuneration for an employing office
25 described in paragraph (6)(A)(i)(III);

1 (iv) any individual performing work
2 for remuneration for an employing office
3 described in paragraph (6)(A)(i)(IV); or

4 (v) any individual performing work for
5 remuneration for an employing agency de-
6 scribed in paragraph (6)(A)(i)(V); or

7 (B) who is a candidate with respect to the
8 employer.

9 (5) EMPLOY.—The term “employ” has the
10 meaning given such term in section 3 of the Fair
11 Labor Standards Act of 1938 (29 U.S.C. 203).

12 (6) EMPLOYER.—

13 (A) IN GENERAL.—The term “employer”
14 means any person who is—

15 (i)(I) a covered employer who is not
16 described in any other subclause of this
17 clause;

18 (II) an entity employing a State em-
19 ployee described in section 304(a) of the
20 Government Employee Rights Act of 1991
21 (42 U.S.C. 2000e–16e(a));

22 (III) an employing office, as defined
23 in section 101 of the Congressional Ac-
24 countability Act of 1995 (2 U.S.C. 1301);

1 (IV) an employing office, as defined in
2 section 411(c) of title 3, United States
3 Code; or

4 (V) an employing agency covered
5 under subchapter V of chapter 63 of title
6 5, United States Code; and

7 (ii) engaged in commerce (including
8 government), or an industry or activity af-
9 fecting commerce (including government).

10 (B) COVERED EMPLOYER.—In subpara-
11 graph (A), the term “covered employer”—

12 (i) means any person engaged in com-
13 merce or in any industry or activity affect-
14 ing commerce who employs, or otherwise
15 engages for the performance of work for
16 remuneration, 11 or more covered individ-
17 uals;

18 (ii) includes—

19 (I) any person who acts, directly
20 or indirectly, in the interest of a cov-
21 ered employer in relation to any indi-
22 vidual performing work for remunera-
23 tion for such covered employer;

24 (II) any successor in interest of a
25 covered employer;

1 (III) any public agency; and

2 (IV) the Government Account-
3 ability Office and the Library of Con-
4 gress; and

5 (iii) does not include any labor organi-
6 zation (other than when acting as an em-
7 ployer) or anyone acting in the capacity of
8 officer or agent of such labor organization.

9 (C) PUBLIC AGENCY.—For purposes of
10 this paragraph, a public agency shall be consid-
11 ered to be a person engaged in commerce or in
12 an industry or activity affecting commerce.

13 (D) DEFINITIONS.—For purposes of this
14 paragraph, the terms “commerce”, “person”,
15 and “public agency” have the meanings given
16 the terms in section 3 of the Fair Labor Stand-
17 ards Act of 1938 (29 U.S.C. 203).

18 (7) EMPLOYMENT-RELATED DECISION.—The
19 term “employment-related decision” includes a deci-
20 sion by an employer with regard to—

21 (A) hiring a covered individual (including
22 any decision with regard to recruiting, screen-
23 ing, interviewing, or selecting a candidate);

1 (B) firing, retaining, taking a disciplinary
2 action against, demoting, or reassigning duties
3 of a covered individual; or

4 (C) any other term, condition, or privilege
5 of employment or work of the covered indi-
6 vidual, such as relating to pay, scheduling,
7 health care or long-term care coverage, benefits,
8 or hours worked or promoting a covered indi-
9 vidual.

10 (8) GOVERNMENT ENTITY.—The term “govern-
11 ment entity” means—

12 (A) a Federal agency (as such term is de-
13 fined in section 3371 of title 5, United States
14 Code);

15 (B) a State or political subdivision thereof;

16 (C) any agency, authority, or instrumen-
17 tality of a State or political subdivision thereof;
18 or

19 (D) a Tribal government or political sub-
20 division thereof.

21 (9) INDIAN TRIBE.—The term “Indian Tribe”
22 means any Indian or Alaska Native tribe, band, na-
23 tion, pueblo, village, community, component band, or
24 component reservation individually identified (includ-
25 ing parenthetically) in the list published most re-

1 cently as of the date of enactment of this Act pursu-
2 ant to section 104 of the Federally Recognized In-
3 dian Tribe List Act of 1994 (25 U.S.C. 5131).

4 (10) LABOR ORGANIZATION.—The term “labor
5 organization” has the meaning given the term in
6 section 2(5) of the National Labor Relations Act (29
7 U.S.C. 152(5)), except that such term shall also in-
8 clude—

9 (A) any organization composed of labor or-
10 ganizations, such as a labor union federation or
11 a State or municipal labor body; and

12 (B) any organization which would be in-
13 cluded in the definition for such term under
14 such section 2(5) but for the fact that the orga-
15 nization represents—

16 (i) individuals employed by the United
17 States, any wholly owned Government cor-
18 poration, any Federal Reserve Bank, or
19 any State or political subdivision thereof;

20 (ii) individuals employed by persons
21 subject to the Railway Labor Act (45
22 U.S.C. 151 et seq.); or

23 (iii) individuals employed as agricul-
24 tural laborers.

1 (11) PREDISPUTE ARBITRATION AGREEMENT.—

2 The term “predispute arbitration agreement” means
3 any agreement to arbitrate a dispute that has not
4 yet arisen at the time of the making of the agree-
5 ment.

6 (12) PREDISPUTE JOINT-ACTION WAIVER.—The

7 term “predispute joint-action waiver” means an
8 agreement, whether or not part of a predispute arbi-
9 tration agreement, that would prohibit, or waive the
10 right of, one of the parties to the agreement to par-
11 ticipate in a joint, class, or collective action in a ju-
12 dicial, arbitral, administrative, or other forum, con-
13 cerning a dispute that has not yet arisen at the time
14 of the making of the agreement.

15 (13) SECRETARY.—The term “Secretary”
16 means the Secretary of Labor.

17 (14) STATE.—The term “State” means each of
18 the several States of the United States, the District
19 of Columbia, or any territory or possession of the
20 United States.

21 (15) STATE ATTORNEY GENERAL.—The term
22 “State attorney general” means—

23 (A) with respect to a State, the attorney
24 general or chief law enforcement officer of the
25 State, or another official or agency designated

1 by the State to bring civil actions on behalf of
2 the State or the residents of the State; and

3 (B) with respect to a Tribal government,
4 the attorney general or chief law enforcement
5 officer of the Tribal government, or another of-
6 ficial or agency designated by the Tribal gov-
7 ernment to bring civil actions on behalf of the
8 Tribal government or the Indian Tribe of the
9 Tribal government.

10 (16) STATE PRIVACY REGULATOR.—The term
11 “State privacy regulator” means—

12 (A) the chief consumer protection officer of
13 a State; or

14 (B) a State consumer protection agency
15 with expertise in data protection, including the
16 California Privacy Protection Agency.

17 (17) TRIBAL GOVERNMENT.—The term “Tribal
18 government” means the recognized governing body
19 of an Indian Tribe.

20 **SEC. 3. USE OF AN AUTOMATED DECISION SYSTEM BY AN**
21 **EMPLOYER.**

22 (a) EMPLOYMENT-RELATED DECISIONS.—

23 (1) IN GENERAL.—An employer—

24 (A) may not rely exclusively on an auto-
25 mated decision system in making an employ-

1 ment-related decision with respect to a covered
2 individual; and

3 (B) may not use an automated decision
4 system output in making an employment-re-
5 lated decision with respect to a covered indi-
6 vidual unless—

7 (i) the automated decision system
8 used to generate such automated decision
9 system output has had pre-deployment
10 testing and validation with respect to—

11 (I) the efficacy of the system;

12 (II) the compliance of the system
13 with applicable employment discrimi-
14 nation laws, including—

15 (aa) title VII of the Civil
16 Rights Act of 1964 (42 U.S.C.
17 2000e et seq.);

18 (bb) the Age Discrimination
19 in Employment Act of 1967 (29
20 U.S.C. 621 et seq.);

21 (cc) title I of the Americans
22 with Disabilities Act of 1990 (42
23 U.S.C. 12111 et seq.);

24 (dd) title II of the Genetic
25 Information Nondiscrimination

1 Act of 2008 (42 U.S.C. 2000ff et
2 seq.);

3 (ee) section 6(d) of the Fair
4 Labor Standards Act of 1938 (29
5 U.S.C. 206(d));

6 (ff) sections 501 and 505 of
7 the Rehabilitation Act of 1973
8 (29 U.S.C. 791; 793); and

9 (gg) the Pregnant Workers
10 Fairness Act (division II of the
11 Consolidated Appropriations Act,
12 2023 (Public Law 117–328));

13 (III) the lack of any potential
14 discriminatory impact of the system,
15 including discriminatory impact based
16 on race, color, religion, sex (including
17 pregnancy, sexual orientation, or gen-
18 der identity), national origin, age, or
19 disability and genetic information (in-
20 cluding family medical history); and

21 (IV) the compliance of the sys-
22 tem with the Artificial Intelligence
23 Risk Management Framework re-
24 leased by the National Institute of

1 Standards and Technology on Janu-
2 ary 26, 2023, or successor framework;

3 (ii) such automated decision system
4 is, not less than annually, independently
5 tested for discriminatory impact described
6 in clause (i)(III) or potential biases and
7 the results of such test are made publicly
8 available;

9 (iii) the employer has provided the
10 disclosure required under paragraph (2)
11 with respect to such use of an automated
12 decision system output;

13 (iv) such use is designed for purposes
14 of making such an employment-related de-
15 cision;

16 (v) the employer independently cor-
17 roborates, via meaningful oversight by a
18 human with appropriate and relevant expe-
19 rience, such automated decision system
20 output;

21 (vi) not later than 7 days after mak-
22 ing such an employment-related decision,
23 the employer provides full, accessible, and
24 meaningful documentation in plain lan-
25 guage to such covered individual (at no

1 cost to such covered individual) on the
2 automated decision system output, includ-
3 ing—

4 (I) a description of the auto-
5 mated decision system used to gen-
6 erate such automated decision system
7 output;

8 (II) a description and expla-
9 nation, in plain language, of the input
10 data to such automated decision sys-
11 tem used to generate such automated
12 decision system output and a ma-
13 chine-readable copy of such data;

14 (III) a description and expla-
15 nation of how such automated deci-
16 sion system output was used in mak-
17 ing such employment-related decision;
18 and

19 (IV) the reasoning for the use of
20 such automated decision system out-
21 put in such employment-related deci-
22 sion; and

23 (vii) the employer enables the covered
24 individual to, after receiving such docu-
25 mentation—

1 (I) dispute (in a manner that is
2 accessible and equitable and does not
3 pose an unreasonable burden on the
4 covered individual) such automated
5 decision system output to a human
6 with appropriate and relevant experi-
7 ence; and

8 (II) appeal such employment-re-
9 lated decision to a human with appro-
10 priate and relevant experience who is
11 not the human for purposes of the
12 corroboration under clause (v).

13 (2) DISCLOSURE.—

14 (A) IN GENERAL.—An employer that uses
15 or intends to use an automated decision system
16 output in making an employment-related deci-
17 sion with respect to a covered individual shall,
18 in accordance with subparagraph (B), disclose
19 to such covered individual—

20 (i) that the employer uses or intends
21 to use an automated decision system out-
22 put in making such an employment-related
23 decision;

24 (ii) a description and explanation of
25 the automated decision system used or in-

1 tended to be used to generate such auto-
2 mated decision system output, including—

3 (I) the types of data collected or
4 intended to be collected as inputs to
5 the automated decision system and
6 the circumstances of such collection;

7 (II) the characteristics that the
8 automated decision system measures
9 or is intended to measure, such as the
10 knowledge, skills, or abilities of the
11 covered individual;

12 (III) how such characteristics re-
13 late or would relate to any function
14 required for the work or potential
15 work of the covered individual;

16 (IV) how the system measures or
17 is intended to measure such charac-
18 teristics; and

19 (V) how the covered individual
20 can interpret the automated decision
21 system output in plain language;

22 (iii) the identity of the individual or
23 entity that operates the automated decision
24 system that provides such an automated
25 decision system output;

1 (iv) how the employer uses or intends
2 to use such an automated decision system
3 output in making such an employment-re-
4 lated decision; and

5 (v) how the covered individual may
6 dispute or appeal an employment-related
7 decision made with respect to the covered
8 individual using an automated decision sys-
9 tem output.

10 (B) TIMING OF NOTICE.—

11 (i) INITIAL DISCLOSURE.—An em-
12 ployer shall provide the disclosure required
13 under subparagraph (A)—

14 (I) in the case of a covered indi-
15 vidual for whom an employment-re-
16 lated decision with regard to the hir-
17 ing of the covered individual—

18 (aa) was made before the
19 date of enactment of this Act, to
20 the covered individual not later
21 than 30 days after such date of
22 enactment; or

23 (bb) is made on or after the
24 date of enactment of this Act, to
25 the covered individual, except as

1 provided in subclause (II), prior
2 to making such employment-re-
3 lated decision; and

4 (II) in the case of a candidate
5 who applies to the employer on or
6 after the date of enactment of this
7 Act, prior to accepting an application
8 by the candidate to be employed by,
9 or otherwise perform work for remun-
10 eration for, the employer.

11 (ii) SUBSEQUENT DISCLOSURES.—Not
12 later than 30 days after any information
13 provided by an employer to a covered indi-
14 vidual through a disclosure required under
15 clause (ii) or (iv) of subparagraph (A) sig-
16 nificantly changes or after any significant
17 new information required to be provided in
18 such a disclosure becomes available, the
19 employer shall provide the covered indi-
20 vidual with an updated disclosure.

21 (3) TRAINING.—An employer that uses or in-
22 tends to use an automated decision system output in
23 making an employment-related decision with respect
24 to a covered individual shall train any individual or
25 entity that operates the automated decision system

1 that provides such an automated decision system
2 output or uses such automated decision system out-
3 put on the use of such system, including on—

4 (A) the input information used by such
5 automated decision system;

6 (B) the appeals process for such an auto-
7 mated decision system output;

8 (C) potential biases in automated decision
9 systems;

10 (D) any limitations of the automated deci-
11 sion system;

12 (E) any potential adverse effects to covered
13 individuals due to the automated decision sys-
14 tem;

15 (F) any potential errors or problems re-
16 lated to the automated decision system; and

17 (G) examples of inappropriate uses of the
18 automated decision system.

19 (b) MANAGEMENT BY AN AUTOMATED DECISION
20 SYSTEM.—An employer that manages a covered individual
21 through an automated decision system shall enable the
22 covered individual to opt out of such management and be
23 managed through a human manager who is able to make
24 employment-related decisions with respect to the covered
25 individual.

1 **SEC. 4. ESTABLISHMENT OF TECHNOLOGY AND WORKER**
2 **PROTECTION DIVISION.**

3 (a) IN GENERAL.—There is established in the De-
4 partment of Labor the Technology and Worker Protection
5 Division.

6 (b) ADMINISTRATOR OF THE TECHNOLOGY AND
7 WORKER PROTECTION DIVISION.—The President shall
8 appoint an Administrator of the Technology and Worker
9 Protection Division to head the Technology and Worker
10 Protection Division.

11 (c) EMPLOYEES AND ADVISORY BOARDS OF THE DI-
12 VISION.—

13 (1) IN GENERAL.—The Administrator—

14 (A) may select, appoint, and employ, with-
15 out regard to the provisions of sections 3309
16 through 3318 of title 5, United States Code, in-
17 dividuals, including technologists, directly to po-
18 sitions in the competitive service, as defined in
19 section 2102 of such title, to carry out the du-
20 ties of the Administrator under this Act; and

21 (B) may fix the compensation of the indi-
22 viduals described in subparagraph (A) without
23 regard to chapter 51 and subchapter III of
24 chapter 53 of title 5, United States Code, relat-
25 ing to classification of positions and General
26 Schedule pay rates, except that the rate of pay

1 for such individuals may not exceed the rate
2 payable for level V of the Executive Schedule
3 under section 5316 of that title.

4 (2) ADVISORY BOARDS.—

5 (A) ESTABLISHMENT.—The Administrator
6 shall establish the following advisory boards to
7 advise and consult with in the exercise of the
8 functions of the Administrator under this Act
9 and to provide information on emerging prac-
10 tices relating to the treatment of data by em-
11 ployers:

12 (i) The User Advisory Board, which
13 shall be comprised of experts in consumer
14 protection, privacy, civil rights, disability
15 rights, labor organizations, and ethics.

16 (ii) The Research Advisory Board,
17 which shall be comprised of individuals
18 with academic and research expertise in
19 privacy, cybersecurity, computer science,
20 innovation, design, ethics, economics, civil
21 rights law, disability law, labor organiza-
22 tions and public policy and representatives
23 of labor organizations.

24 (iii) The Product Advisory Board,
25 which shall be comprised of technologists,

1 computer scientists, designers, product
2 managers, attorneys, representatives of
3 labor organizations, workplace technology
4 experts, accessibility experts, and other
5 representatives of employers and employ-
6 ees.

7 (iv) The Labor Advisory Board, which
8 shall be comprised of representatives of
9 labor organizations and representatives of
10 workers.

11 (B) APPOINTMENTS.—The Administrator
12 shall appoint members to the advisory boards
13 established under subparagraph (A) without re-
14 gard to party affiliation.

15 (C) MEETINGS.—Each advisory board es-
16 tablished under subparagraph (A) shall meet—

17 (i) at the call of the Administrator;

18 and

19 (ii) not less than 2 times annually.

20 (D) COMPENSATION AND TRAVEL EX-
21 PENSES.—A member of an advisory board es-
22 tablished under subparagraph (A) who is not an
23 officer or employee of the Federal Government
24 shall—

1 (i) be entitled to receive compensation
2 at a rate fixed by the Administrator while
3 attending meetings of the advisory board,
4 including travel time; and

5 (ii) receive travel expenses, including
6 per diem in lieu of subsistence, in accord-
7 ance with applicable provisions under sub-
8 chapter I of chapter 57 of title 5, United
9 States Code.

10 (E) EXEMPTION FROM THE FEDERAL AD-
11 VISORY COMMITTEE ACT.—Each advisory board
12 established under subparagraph (A) shall be ex-
13 empt from chapter 10 of title 5, United States
14 Code.

15 (3) USE OF VOLUNTARY SERVICES.—The Ad-
16 ministrator may, as may from time to time be need-
17 ed, use any voluntary or uncompensated services.

18 (4) ATTORNEYS.—Attorneys appointed under
19 this subsection may appear for and represent the
20 Administrator in any litigation.

21 (d) OFFICES.—

22 (1) IN GENERAL.—The principal office of the
23 Technology and Worker Protection Division shall be
24 in the District of Columbia.

1 (2) REGIONAL, LOCAL, AND OTHER OFFICES.—
2 The Administrator may establish regional, local, or
3 other offices, including an office in the city of San
4 Francisco, California or the San Francisco Bay area
5 in California.

6 **SEC. 5. REGULATIONS.**

7 (a) IN GENERAL.—

8 (1) AUTHORITY.—

9 (A) IN GENERAL.—Except as provided in
10 paragraph (2), the Secretary, acting through
11 the Administrator, may prescribe such regula-
12 tions as may be necessary to carry out this Act
13 with respect to covered individuals described in
14 section 2(4)(A) (other than covered individuals
15 described in clauses (iii) through (v) of such
16 section) and other individuals affected by em-
17 ployers described in subclause (I) or (II) of sec-
18 tion 2(6)(A)(i), including individuals who are
19 covered individuals described in section 2(4)(B)
20 with respect to such employers.

21 (B) CONSULTATION.—In prescribing any
22 regulations authorized under this paragraph,
23 the Secretary, acting through the Adminis-
24 trator, may consult with—

1 (i) Federal agencies that have juris-
2 diction over Federal privacy laws or exper-
3 tise in privacy, including the Federal
4 Trade Commission;

5 (ii) Federal agencies that have juris-
6 diction over labor and employment issues,
7 including the Equal Employment Oppor-
8 tunity Commission, the National Science
9 Foundation, and the National Labor Rela-
10 tions Board; and

11 (iii) any other Federal agencies with
12 relevant expertise, including the United
13 States Access Board and the Office of
14 Science and Technology Policy.

15 (2) GOVERNMENT ACCOUNTABILITY OFFICE; LI-
16 BRARY OF CONGRESS.—The Comptroller General of
17 the United States and the Librarian of Congress
18 shall prescribe any regulations described in para-
19 graph (1)(A) with respect to covered individuals of
20 the Government Accountability Office and the Li-
21 brary of Congress, respectively, and other individuals
22 affected by the Comptroller General of the United
23 States and the Librarian of Congress, respectively.

24 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
25 COUNTABILITY ACT OF 1995.—

1 (1) AUTHORITY.—Not later than 45 days after
2 the Secretary prescribes any regulation under sub-
3 section (a)(1)(A), the Board of Directors of the Of-
4 fice of Compliance shall prescribe (in accordance
5 with section 304 of the Congressional Accountability
6 Act of 1995 (2 U.S.C. 1384)) such regulations as
7 may be necessary to carry out this Act with respect
8 to covered individuals described in section
9 2(4)(A)(iii) and other individuals affected by em-
10 ployers described in section 2(6)(A)(i)(III), including
11 individuals who are covered individuals described in
12 section 2(4)(B) with respect to such employers.

13 (2) AGENCY REGULATIONS.—The regulations
14 prescribed under paragraph (1) shall be the same as
15 substantive regulations promulgated by the Sec-
16 retary under subsection (a)(1)(A) except insofar as
17 the Board may determine, for good cause shown and
18 stated together with the regulations prescribed
19 under paragraph (1), that a modification of such
20 regulations would be more effective for the imple-
21 mentation of the rights and protections involved
22 under this section.

23 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
24 3, UNITED STATES CODE.—

1 (1) AUTHORITY.—Not later than 45 days after
2 the Secretary prescribes any regulation under sub-
3 section (a)(1)(A), the President (or the designee of
4 the President) shall prescribe such regulations as
5 may be necessary to carry out this Act with respect
6 to covered individuals described in section
7 2(4)(A)(iv) and other individuals affected by employ-
8 ers described in section 2(6)(A)(i)(IV), including in-
9 dividuals who are covered individuals described in
10 section 2(4)(B) with respect to such employers.

11 (2) AGENCY REGULATIONS.—The regulations
12 prescribed under paragraph (1) shall be the same as
13 substantive regulations promulgated by the Sec-
14 retary under subsection (a)(1)(A) except insofar as
15 the President (or designee) may determine, for good
16 cause shown and stated together with the regula-
17 tions prescribed under paragraph (1), that a modi-
18 fication of such regulations would be more effective
19 for the implementation of the rights and protections
20 involved under this section.

21 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
22 5, UNITED STATES CODE.—

23 (1) AUTHORITY.—Not later than 45 days after
24 the Secretary prescribes any regulation under sub-
25 section (a)(1)(A), the Director of the Office of Per-

1 sonnel Management shall prescribe such regulations
2 as may be necessary to carry out this Act with re-
3 spect to covered individuals described in section
4 2(4)(A)(v) and other individuals affected by employ-
5 ers described in section 2(6)(A)(i)(V), including indi-
6 viduals who are covered individuals described in sec-
7 tion 2(4)(B) with respect to such employers.

8 (2) AGENCY REGULATIONS.—The regulations
9 prescribed under paragraph (1) shall be the same as
10 substantive regulations promulgated by the Sec-
11 retary under subsection (a)(1)(A) except insofar as
12 the Director may determine, for good cause shown
13 and stated together with the regulations prescribed
14 under paragraph (1), that a modification of such
15 regulations would be more effective for the imple-
16 mentation of the rights and protections involved
17 under this section.

18 **SEC. 6. WHISTLEBLOWER PROTECTIONS.**

19 No employer shall discriminate or retaliate (including
20 through intimidation, threats, coercion, or harassment)
21 against any covered individual of the employer—

22 (1) for exercising, or attempting to exercise,
23 any right provided under this Act; or

1 (2) because the covered individual (or another
2 individual acting at the request of the covered indi-
3 vidual) has—

4 (A) filed a written or oral complaint to the
5 employer or a Federal, State, or local govern-
6 ment entity of a violation of section 3;

7 (B) sought assistance or intervention with
8 respect to a worker privacy-related concern
9 from the employer, a Federal, State, or local
10 government, or a worker representative;

11 (C) instituted, caused to be instituted, or
12 otherwise participated in any inquiry or pro-
13 ceeding under or related to this Act;

14 (D) given, or is about to give, any informa-
15 tion in connection with any inquiry or pro-
16 ceeding relating to any right provided under
17 this Act; or

18 (E) testified, or is about to testify, in any
19 inquiry or proceeding relating to any right pro-
20 vided under this Act.

21 **SEC. 7. ENFORCEMENT.**

22 (a) IN GENERAL.—

23 (1) DEFINITION.—For purposes of this sub-
24 section:

1 (A) COVERED INDIVIDUAL.—The term
2 “covered individual” means a covered indi-
3 vidual—

4 (i) described in section 2(4)(A) (other
5 than covered individuals described in
6 clauses (iii) through (v) of such section); or

7 (ii) described in section 2(4)(B) with
8 respect to an employer.

9 (B) EMPLOYER.—The term “employer”
10 means an employer described in subclause (I)
11 or (II) of section 2(6)(A)(i).

12 (2) ENFORCEMENT BY THE TECHNOLOGY AND
13 WORKER PROTECTION DIVISION.—

14 (A) INVESTIGATION.—

15 (i) IN GENERAL.—To ensure compli-
16 ance with the provisions of this Act, or any
17 regulation or order issued under this Act,
18 the Secretary, acting through the Adminis-
19 trator—

20 (I) may investigate and gather
21 data regarding the wages, hours, and
22 other conditions and practices of em-
23 ployment in any industry subject to
24 this Act, and may enter and inspect
25 any place or record (and make such

1 transcriptions thereof), question any
2 covered individual, and investigate any
3 facts, conditions, practices, or matters
4 as the Secretary may deem necessary
5 or appropriate to determine whether
6 an employer has violated any provi-
7 sion of this Act, or which may aid in
8 the enforcement of the provisions of
9 this Act; and

10 (II) may require, by general or
11 special orders, an employer, to file
12 with the Secretary, in such form as
13 the Secretary may prescribe, annual
14 or special reports or answers in writ-
15 ing to specific questions, furnishing to
16 the Secretary such information or
17 records as the Secretary may require
18 as to the organization, business, con-
19 duct, practices, management, and re-
20 lation to other corporations, partner-
21 ships, and individuals, of the em-
22 ployer.

23 (ii) REPORTS AND ANSWERS.—An em-
24 ployer shall file the reports and answers
25 (including information and records) re-

1 required under clause (i)(II) in such manner,
2 including under oath or otherwise, and
3 within such reasonable time period as the
4 Secretary may require.

5 (iii) JOINT INVESTIGATIONS.—The
6 Secretary, acting through the Adminis-
7 trator, may conduct investigations and
8 make requests for information, as author-
9 ized under this Act, on a joint basis with
10 another Federal agency, a State attorney
11 general, or a State agency.

12 (iv) OBLIGATION TO KEEP, PRESERVE,
13 AND MAKE AVAILABLE RECORDS.—An em-
14 ployer shall make, keep, preserve, and
15 make available to the Secretary records
16 pertaining to compliance with this Act in
17 accordance with section 11(c) of the Fair
18 Labor Standards Act of 1938 (29 U.S.C.
19 211(c)) and in accordance with any regula-
20 tion or order issued by the Secretary.

21 (B) ENFORCEMENT.—With respect to em-
22 ployers and covered individuals, the Secretary,
23 acting through the Administrator, shall receive,
24 investigate, and attempt to resolve complaints
25 of violations of section 3 or 6 in the same man-

1 ner that the Secretary receives, investigates,
2 and attempts to resolve complaints of violations
3 of sections 6 and 7 of the Fair Labor Stand-
4 ards Act of 1938 (29 U.S.C. 206 and 207).

5 (C) REFERRAL FOR CRIMINAL PRO-
6 CEEDINGS.—If the Secretary, in the course of
7 the performance of any act or duty under this
8 Act, obtains evidence that any employer has en-
9 gaged in conduct that may constitute a viola-
10 tion of Federal criminal law, the Secretary shall
11 refer the matter to the Attorney General for
12 prosecution under any applicable law. Nothing
13 in this paragraph shall affect any other author-
14 ity of the Secretary to disclose information.

15 (D) LITIGATION.—The Solicitor of Labor
16 may appear for and represent the Secretary on
17 any litigation brought under this subsection.

18 (3) PRIVATE RIGHT OF ACTION.—

19 (A) IN GENERAL.—

20 (i) COVERED INDIVIDUAL.—Notwith-
21 standing any action by the Secretary under
22 paragraph (2)(B), any covered individual
23 adversely affected by an alleged violation of
24 section 3 or 6, may commence a civil ac-
25 tion against any person that violates such

1 section in any Federal court of competent
2 jurisdiction.

3 (ii) LABOR ORGANIZATION.—Notwith-
4 standing any action by the Secretary under
5 paragraph (2)(B), any labor organization
6 adversely affected by an alleged violation of
7 3 or 6 may commence a civil action against
8 any person that violates such section in
9 any Federal court of competent jurisdic-
10 tion.

11 (B) RELIEF.—

12 (i) IN GENERAL.—In a civil action
13 brought under subparagraph (A) in which
14 the covered individual or labor organization
15 prevails, the court may award the covered
16 individual or labor organization—

17 (I) damages of—

18 (aa) an amount equal to the
19 sum of any actual damages sus-
20 tained by the covered individual;
21 or

22 (bb) not more than treble
23 damages;

24 (II) statutory damages described
25 in clause (iv);

1 (III) injunctive relief; and

2 (IV) equitable relief.

3 (ii) ATTORNEY'S FEES.—In a civil ac-
4 tion brought under subparagraph (A) in
5 which the covered individual or labor orga-
6 nization prevails, the court shall award the
7 covered individual or labor organization
8 reasonable attorney's fees and litigation
9 costs.

10 (iii) TEMPORARY RELIEF FOR WHIS-
11 TLEBLOWERS.—In a civil action brought
12 under subparagraph (A) regarding a viola-
13 tion of section 6, the court may award the
14 covered individual or labor organization
15 temporary relief while the case is pending,
16 including reinstatement.

17 (iv) STATUTORY DAMAGES.—The
18 court may, in accordance with clause (v),
19 award statutory damages under clause
20 (i)(II) against a person in the following
21 amounts:

22 (I) USING AN AUTOMATED DECI-
23 SION SYSTEM FOR PROHIBITED AC-
24 TIVITIES.—For each violation of sec-
25 tion 3 by an employer with respect to

1 a covered individual, the court may,
2 subject to clause (vi), award—

3 (aa) damages of an amount
4 not less than \$5,000 and not
5 more than \$20,000; or

6 (bb) for any willful or re-
7 peated violation by the employer,
8 damages of an amount not less
9 than \$10,000 and not more than
10 \$40,000.

11 (II) RETALIATION ON WHISTLE-
12 BLOWERS.—For each violation of sec-
13 tion 6, the court may, subject to
14 clause (vi), award—

15 (aa) damages of an amount
16 not less than \$5,000 and not
17 more than \$50,000; or

18 (bb) for any willful or re-
19 peated violation, damages of an
20 amount not less than \$10,000
21 and not more than \$100,000.

22 (v) CONSIDERATIONS FOR STATUTORY
23 DAMAGES.—In determining the amount of
24 statutory damages assessed under clause
25 (iv), the court shall consider any relevant

1 circumstances presented by the parties to
2 the action, including—

3 (I) the nature and seriousness of
4 the violation;

5 (II) the number of violations;

6 (III) the persistence of the mis-
7 conduct;

8 (IV) the length of time over
9 which the misconduct occurred;

10 (V) the willfulness of the mis-
11 conduct of the employer; and

12 (VI) the assets, liabilities, and
13 net worth of the employer.

14 (vi) ADJUSTMENT FOR INFLATION.—

15 The dollar amounts referred to subclauses
16 (I) and (II) of clause (iv) shall be in-
17 creased annually, for fiscal year 2025 and
18 every fiscal year thereafter, by the percent
19 increase, if any, in the consumer price
20 index for all urban consumers for the most
21 recent 12-month period for which applica-
22 ble data is available.

23 (C) RIGHTS OF THE SECRETARY AND A
24 STATE ATTORNEY GENERAL.—Prior to an cov-
25 ered individual or labor organization bringing a

1 civil action under subparagraph (A), such cov-
2 ered individual or labor organization shall, in
3 writing, notify the Secretary and any relevant
4 State attorney general of the intent to com-
5 mence such civil action. Upon receiving such
6 notice, the Secretary and State attorney general
7 shall each, not later than 60 days after receiv-
8 ing such notice—

9 (i) determine whether to intervene in
10 such action and, upon intervening—

11 (I) be heard on all matters aris-
12 ing in such action; and

13 (II) file petitions for appeal of a
14 decision in such action; and

15 (ii) notify such covered individual or
16 labor organization.

17 (D) REMEDIES FOR STATE EMPLOYEES.—

18 (i) WAIVER OF SOVEREIGN IMMUN-
19 NITY.—A State’s receipt or use of Federal
20 financial assistance for any program or ac-
21 tivity of a State shall constitute a waiver
22 of sovereign immunity, under the 11th
23 Amendment to the Constitution of the
24 United States or otherwise, to a suit
25 brought by a covered individual of that

1 program or activity, or a labor organiza-
2 tion representing such a covered individual,
3 under this paragraph for equitable, legal,
4 or other relief authorized under this para-
5 graph.

6 (ii) OFFICIAL CAPACITY.—An official
7 of a State may be sued in the official ca-
8 pacity of the official by any covered indi-
9 vidual or such a labor organization who
10 has complied with the procedures under
11 this paragraph, for injunctive relief that is
12 authorized under this paragraph. In such a
13 suit the court may award to the prevailing
14 party those costs authorized by section 722
15 of the Revised Statutes (42 U.S.C. 1988).

16 (iii) APPLICABILITY.—With respect to
17 a particular program or activity, clause (i)
18 applies to conduct that occurs—

19 (I) after the date of enactment of
20 this Act; and

21 (II) on or after the day on which
22 a State first receives or uses Federal
23 financial assistance for that program
24 or activity.

1 (iv) DEFINITION OF PROGRAM OR AC-
2 TIVITY.—In this subparagraph, the term
3 “program or activity” has the meaning
4 given the term in section 606 of the Civil
5 Rights Act of 1964 (42 U.S.C. 2000d–4a).

6 (E) REMEDIES FOR TRIBAL GOVERNMENT
7 EMPLOYEES.—

8 (i) WAIVER OF SOVEREIGN IMMUN-
9 NITY.—A Tribal government’s receipt or
10 use of Federal financial assistance for any
11 program or activity of the Tribal govern-
12 ment shall constitute a waiver of sovereign
13 immunity to a suit brought by a covered
14 individual of that program or activity, or a
15 labor organization representing such a cov-
16 ered individual, under this paragraph for
17 equitable, legal, or other relief authorized
18 under this paragraph.

19 (ii) OFFICIAL CAPACITY.—An official
20 of a Tribal government may be sued in the
21 official capacity of the official by any cov-
22 ered individual or such a labor organiza-
23 tion who has complied with the procedures
24 under this paragraph for injunctive relief
25 that is authorized under this paragraph. In

1 such a suit the court may award to the
2 prevailing party those costs authorized by
3 section 722 of the Revised Statutes (42
4 U.S.C. 1988).

5 (iii) APPLICABILITY.—With respect to
6 a particular program or activity, clause (i)
7 applies to conduct that occurs—

8 (I) after the date of enactment of
9 this Act; and

10 (II) on or after the day on which
11 a Tribal government first receives or
12 uses Federal financial assistance for
13 that program or activity.

14 (iv) DEFINITION OF PROGRAM OR AC-
15 TIVITY.—In this subparagraph, the term
16 “program or activity” has the meaning
17 given the term in section 606 of the Civil
18 Rights Act of 1964 (42 U.S.C. 2000d–4a).

19 (4) ENFORCEMENT BY THE GOVERNMENT AC-
20 COUNTABILITY OFFICE AND LIBRARY OF CON-
21 GRESS.—Notwithstanding any other provision of this
22 subsection, in the case of the Government Account-
23 ability Office and the Library of Congress, the au-
24 thority of the Secretary under this subsection shall
25 be exercised respectively by the Comptroller General

1 of the United States and the Librarian of Congress,
2 respectively.

3 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
4 COUNTABILITY ACT OF 1995.—The powers, remedies, and
5 procedures provided in the Congressional Accountability
6 Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as de-
7 fined in section 101 of that Act (2 U.S.C. 1301)), or any
8 person, alleging a violation of section 202(a)(1) of that
9 Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies,
10 and procedures this Act provides to that Board, or any
11 person, with regard to an allegation of a violation of sec-
12 tion 3 or 6 against a covered individual described in sec-
13 tion 2(4)(A)(iii) or described in section 2(4)(B) with re-
14 spect to an employer described in section 2(6)(A)(i)(III).

15 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
16 3, UNITED STATES CODE.—The powers, remedies, and
17 procedures provided in chapter 5 of title 3, United States
18 Code, to the President, the Merit Systems Protection
19 Board, or any person, alleging a violation of section
20 412(a)(1) of that title, shall be the powers, remedies, and
21 procedures this Act provides to the President, that Board,
22 or any person, respectively, with regard to an allegation
23 of a violation of section 3 or 6 against a covered individual
24 described in section 2(4)(A)(iv) or described in section

1 2(4)(B) with respect to an employer described in section
2 2(6)(A)(i)(IV).

3 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
4 5, UNITED STATES CODE.—The powers, remedies, and
5 procedures provided in title 5, United States Code, to an
6 employing agency, provided in chapter 12 of that title to
7 the Merit Systems Protection Board, or provided in that
8 title to any person, alleging a violation of chapter 63 of
9 that title, shall be the powers, remedies, and procedures
10 this Act provides to that agency, that Board, or any per-
11 son, respectively, with regard to an allegation of a viola-
12 tion of section 3 or 6 against a covered individual de-
13 scribed in section 2(4)(A)(v) or described in section
14 2(4)(B) with respect to an employer described in section
15 2(6)(A)(i)(V).

16 (e) ENFORCEMENT BY STATES.—

17 (1) IN GENERAL.—In any case in which a State
18 attorney general or a State privacy regulator has
19 reason to believe that an interest of the residents of
20 a State has been or is adversely affected by any per-
21 son who violates any provision of section 3 or 6, in-
22 cluding a regulation or order prescribed under this
23 Act, the State attorney general or State privacy reg-
24 ulator, as *parens patriae*, may bring a civil action on
25 behalf of the residents of the State in an appropriate

1 State court or an appropriate district court of the
2 United States to—

3 (A) enjoin further violation of such provi-
4 sion by the person;

5 (B) compel compliance with such provision;

6 (C) obtain damages (including statutory
7 damages described in paragraph (4)), civil pen-
8 alties, restitution, or other compensation on be-
9 half of the residents of the State; or

10 (D) obtain reasonable attorney’s fees and
11 other litigation costs reasonably incurred.

12 (2) RIGHTS OF AGENCY.—Before initiating a
13 civil action under paragraph (1), the State attorney
14 general or State privacy regulator, as the case may
15 be, shall notify the Secretary in writing of such civil
16 action. Upon receiving such notice, the Secretary
17 may—

18 (A) intervene in such action; and

19 (B) upon intervening—

20 (i) be heard on all matters arising in
21 such civil action; and

22 (ii) file petitions for appeal of a deci-
23 sion in such action.

24 (3) PREEMPTIVE ACTION BY AGENCY.—In any
25 case in which a civil action is instituted by or on be-

1 half of the Secretary for violation of this Act or a
2 regulation promulgated under this Act, a State at-
3 torney general or State privacy regulator may not,
4 during the pendency of such action, institute a civil
5 action against any defendant named in the com-
6 plaint in the action instituted by or on behalf of the
7 Secretary for a violation that is alleged in such com-
8 plaint. In a case brought by the Secretary that af-
9 fects the interests of a State, the State attorney gen-
10 eral or State privacy regulator may intervene as of
11 right pursuant to the Federal Rules of Civil Proce-
12 dure.

13 (4) STATUTORY DAMAGES.—In a civil action in-
14 stituted under paragraph (1), a court may award
15 statutory damages under paragraph (1)(C) against a
16 person for a violation of any provision of section 3
17 or 6—

18 (A) in an amount not more than \$50,000
19 for each such violation; or

20 (B) in the case of such a violation that re-
21 sults in the discharge of an employee or other
22 serious economic harm to an employee by such
23 a person who has, within the preceding 5 years,
24 committed another such violation resulting in
25 such a discharge or other serious economic

1 harm, not more than \$100,000 for each such
2 violation.

3 (5) PRESERVATION OF STATE POWERS.—Ex-
4 cept as provided in paragraph (3), no provision of
5 this subsection shall be construed as altering, lim-
6 iting, or affecting the authority of a State attorney
7 general or State privacy regulator to—

8 (A) bring an action or other regulatory
9 proceeding arising solely under the laws in ef-
10 fect in that State; or

11 (B) exercise the powers conferred on the
12 State attorney general or State privacy regu-
13 lator by the laws of the State, including the
14 ability to conduct investigations, administer
15 oaths or affirmations, or compel the attendance
16 of witnesses or the production of documentary
17 or other evidence.

18 (f) ARBITRATION AND CLASS ACTION.—Notwith-
19 standing any other provision of law, no predispute arbitra-
20 tion agreement or predispute joint-action waiver shall be
21 valid or enforceable with respect to any alleged violation
22 of section 3 or 6.

23 **SEC. 8. COORDINATION.**

24 In carrying out this Act, the Secretary, acting
25 through the Administrator, shall coordinate with any ap-

1 appropriate Federal agency or State regulator to promote
2 consistent regulatory treatment of automated decision sys-
3 tems.

4 **SEC. 9. RELATION TO OTHER LAWS.**

5 Except as explicitly provided otherwise in this Act,
6 nothing in this Act shall be construed to preempt, modify,
7 limit, or supersede—

8 (1) any provision of Federal or State law; or

9 (2) the authority of the Federal Trade Commis-
10 sion, Equal Employment Opportunity Commission,
11 National Labor Relations Board, or any other Fed-
12 eral agency.

13 **SEC. 10. SEVERABILITY.**

14 If any provision of this Act or the application of such
15 provision to any person or circumstance is held to be un-
16 constitutional, the remainder of this Act and the applica-
17 tion of the provisions of such to all other persons or cir-
18 cumstances shall not be affected thereby.

○