



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB5322

Introduced 2/9/2024, by Rep. Abdelnasser Rashid

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Illinois Commercial Algorithmic Impact Assessments Act. Defines "algorithmic discrimination", "artificial intelligence", "consequential decision", "deployer", "developer" and other terms. Requires that by January 1, 2026 and annually thereafter, a deployer of an automated decision tool must complete and document an assessment that summarizes the nature and extent of that tool, how it is used, and assessment of its risks among other things. Requires on or after January 1, 2026 and annually thereafter, developers of an automated decision tool must complete and document a similar assessment. Provides that upon the request of the Attorney General, a developer or deployer must provide that Office any impact assessment performed that is exempt from the Freedom of Information Act. Requires that a developer must provide a deployer with a statement regarding the intended uses of the automated decision tool and documentation regarding all of the following: (i) the known limitations of the automated decision tool, including any reasonably foreseeable risks of algorithmic discrimination arising from its intended use; (ii) a description of the types of data used to program or train the automated decision tool; and (iii) a description of how the automated decision tool was evaluated for validity and the ability to be explained before sale or licensing. Exempts a deployer with fewer than 50 employees unless, as of the end of the prior calendar year, the deployer deployed an automated decision tool that affected more than 999 people per year.

LRB103 37070 JRC 67188 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Illinois Commercial Algorithmic Impact Assessments Act.

6 Section 5. Definitions. As used in this Act:

7 "Algorithmic discrimination" means the condition in which  
8 an automated decision tool contributes to unjustified  
9 differential treatment or impacts disfavoring people on the  
10 basis of race, color, national origin, citizen or immigration  
11 status, families with children, creed, religious belief or  
12 affiliation, sex, marital status, the presence of any sensory,  
13 mental, or physical disability, age, honorably discharged  
14 veteran or military status, sexual orientation, gender  
15 expression or gender identity, or any other protected class  
16 under Illinois statute.

17 "Artificial intelligence" means a machine-based system  
18 that can, for a given set of human-defined objectives, make  
19 predictions, recommendations, or decisions influencing a real  
20 or virtual environment.

21 "Automated decision tool" means a system or service that  
22 uses artificial intelligence and has been specifically  
23 developed and marketed to, or specifically modified to, make,

1 or be a controlling factor in making, consequential decisions.

2 "Consequential decision" means a decision or judgment that  
3 has a legal, material, or similarly significant effect on an  
4 individual's life relating to the impact of, access to, or the  
5 cost, terms, or availability of, any of the following:

6 (1) Employment, workers management, or  
7 self-employment, including, but not limited to:

8 (A) Pay or promotion;

9 (B) Hiring or termination; and

10 (C) Automated task allocation that automatically  
11 limits, segregates, or classifies employees based on  
12 individual behavior or performance for the purpose of  
13 assigning or determining material terms or conditions  
14 of employment.

15 (2) Education and vocational training, including, but  
16 not limited to:

17 (A) Assessment, including, but not limited to,  
18 detecting student cheating or plagiarism;

19 (B) Accreditation;

20 (C) Certification;

21 (D) Admissions; and

22 (E) Financial aid or scholarships.

23 (3) Housing or lodging, including rental or short-term  
24 housing or lodging;

25 (4) Essential utilities, including electricity, heat,  
26 water, internet or telecommunications access, or

1 transportation;

2 (5) Family planning, including adoption services or  
3 reproductive services, as well as assessments related to  
4 child protective services;

5 (6) Health care or health insurance, including mental  
6 health care, dental, or vision;

7 (7) Financial services, including a financial service  
8 provided by a mortgage company, mortgage broker, or  
9 creditor;

10 (8) The criminal justice system, including, but not  
11 limited to, risk assessments for pretrial hearings,  
12 sentencing, and parole;

13 (9) Legal services, including private arbitration or  
14 mediation;

15 (10) Voting; and

16 (11) Access to benefits or services or assignment of  
17 penalties.

18 "Deployer" means a person, partnership, State or local  
19 government agency, or corporation that uses or modifies an  
20 automated decision tool to make a consequential decision.

21 "Developer" means a person, partnership, State or local  
22 government agency, or corporation that designs, codes, or  
23 produces an automated decision tool, or substantially modifies  
24 an artificial intelligence system or service for the known  
25 intended purpose of making, or being a controlling factor in  
26 making, consequential decisions, whether for its own use or

1 for use by the deployer.

2 "Ethical artificial intelligence" means automated decision  
3 tools that are developed and deployed with reasonable efforts  
4 by the developer and the deployer to:

5 (1) Minimize unlawful discriminatory or biased outputs  
6 or applications;

7 (2) Ensure that automated decision tools are being  
8 operated reliably, safely, and consistently;

9 (3) Protect the data of natural persons by  
10 incorporating robust privacy and data security measures;

11 (4) Prioritize transparency so that the behavior and  
12 functional components of automated decision tools can be  
13 understood in order to enable the identification of  
14 performance issues, safety and privacy concerns, biases,  
15 exclusionary practices, and unintended outcomes; and

16 (5) Promote individual rights and minimize reasonably  
17 foreseeable harm to individuals resulting from use of the  
18 automated decision tool.

19 "Impact assessment" means a documented risk-based  
20 evaluation of an automated decision tool that meets the  
21 criteria of this Act.

22 "Sex" includes pregnancy, childbirth, and related  
23 conditions, gender identity, intersex status, and sexual  
24 orientation.

25 "Significant update" means a new version, new release, or  
26 other update to an automated decision tool that materially

1 changes its principal use, principal intended use, or expected  
2 outcome.

3 Section 10. Assessment required.

4 (a) By January 1, 2026, and annually thereafter, a  
5 deployer of an automated decision tool must complete and  
6 document an impact assessment for any automated decision tool  
7 the deployer uses that includes all of the following:

8 (1) A statement of the purpose of the automated  
9 decision tool and its intended benefits, uses, and  
10 deployment contexts;

11 (2) A description of the automated decision tool's  
12 outputs and how they are used to make, or be a controlling  
13 factor in making, a consequential decision;

14 (3) A summary of the types of data collected from  
15 natural persons and processed by the automated decision  
16 tool when it is used to make, or be a controlling factor in  
17 making, a consequential decision;

18 (4) A statement of the extent to which the deployer's  
19 use of the automated decision tool is consistent with or  
20 varies from the statement required of the developer by  
21 Section 15 of this Act;

22 (5) An assessment of the reasonably foreseeable risks  
23 of algorithmic discrimination arising from the use of the  
24 automated decision tool known to the deployer at the time  
25 of the impact assessment;

1           (6) A description of the safeguards implemented, or  
2           that will be implemented, by the deployer to align use of  
3           the automated decision tool with principles of ethical  
4           artificial intelligence and to address any reasonably  
5           foreseeable risks of algorithmic discrimination arising  
6           from the use of the automated decision tool;

7           (7) A description of how the automated decision tool  
8           will be used by a natural person, or monitored when it is  
9           used, to make, or be a controlling factor in making, a  
10          consequential decision; and

11          (8) A description of how the automated decision tool  
12          has been or will be evaluated for validity or relevance.

13          (b) By January 1, 2026, and annually thereafter, a  
14          developer of an automated decision tool must complete and  
15          document an impact assessment of any automated decision tool  
16          that it designs, codes, or produces that includes all of the  
17          following:

18               (1) A statement of the purpose of the automated  
19               decision tool and its intended benefits, uses, and  
20               deployment contexts;

21               (2) A description of the automated decision tool's  
22               outputs and how they are used, as intended, to make, or be  
23               a controlling factor in making, a consequential decision;

24               (3) A summary of the types of data collected from  
25               natural persons and processed by the automated decision  
26               tool when it is used to make, or be a controlling factor in

1 making, a consequential decision;

2 (4) An assessment of the reasonably foreseeable risks  
3 of algorithmic discrimination arising from the intended  
4 use or foreseeable misuse of the automated decision tool;

5 (5) A description of the measures taken by the  
6 developer to incorporate principles of ethical artificial  
7 intelligence and to mitigate the risk known to the  
8 developer of algorithmic discrimination arising from the  
9 use of the automated decision tool; and

10 (6) A description of how the automated decision tool  
11 is intended to be used by a natural person, or monitored  
12 when it is used, to make, or be a controlling factor in  
13 making, a consequential decision.

14 (c) A deployer or developer must, in addition to the  
15 impact assessment required by subsections (1) and (2) of this  
16 Section, perform, as soon as feasible, an impact assessment  
17 with respect to any significant update.

18 (d) Upon the request of the Office of the Attorney  
19 General, a developer or deployer must provide any impact  
20 assessment that it performed pursuant to this Section to the  
21 Office of the Attorney General. If a developer or deployer  
22 fails or refuses to provide an impact assessment requested by  
23 the Attorney General, the Attorney General may seek injunctive  
24 relief, actual damages caused by failure or refusal, and  
25 attorney's fees.

26 (e) Impact assessments provided pursuant to subsection (d)



1 of this Section are confidential and exempt from disclosure  
2 under the Freedom of Information Act.

3 Section 15. Statements provided to deployers. A developer  
4 must provide a deployer with a statement regarding the  
5 intended uses of the automated decision tool and documentation  
6 regarding all of the following:

7 (a) The known limitations of the automated decision  
8 tool, including any reasonably foreseeable risks of  
9 algorithmic discrimination arising from its intended use;

10 (b) A description of the types of data used to program  
11 or train the automated decision tool; and

12 (c) A description of how the automated decision tool  
13 was evaluated for validity and the ability to be explained  
14 before sale or licensing.

15 Section 20. Developer policies. A developer must make  
16 publicly available, in a readily accessible manner, a clear  
17 policy that provides a summary of both of the following:

18 (a) The types of automated decision tools currently  
19 made available to others by the developer; and

20 (b) How the developer manages the reasonably  
21 foreseeable risks of algorithmic discrimination that may  
22 arise from the use of the automated decision tools it  
23 currently makes available to others.

1           Section 25. Exempt deployers. This Act does not apply to a  
2           deployer with fewer than 50 employees unless, as of the end of  
3           the prior calendar year, the deployer deployed an automated  
4           decision tool that affected more than 999 people per year.