
OLR Bill Analysis

sSB 1103 (File 228, as amended by Senate "A")*

AN ACT CONCERNING ARTIFICIAL INTELLIGENCE, AUTOMATED DECISION-MAKING AND PERSONAL DATA PRIVACY.

SUMMARY

This bill requires the executive and judicial branches to (1) conduct an inventory of all their systems that employ artificial intelligence (AI) and (2) develop and set policies and procedures on developing, procuring, using, and assessing systems that use AI. It also requires them to publicly post the inventory and policies and procedures online.

Beginning February 1, 2024, the bill prohibits the executive and judicial branches from implementing any system that uses AI unless they have done an impact assessment to ensure the system will not result in any unlawful discrimination or disparate impact against specified individuals or groups (e.g., age and race). It also establishes a 21-member working group to make recommendations to the General Law Committee on certain issues concerning AI. Among other things, the working group must engage stakeholders and experts on how to develop best practices for the ethical and equitable use of AI in state government.

Separately, the bill prohibits state contracting agencies from entering a contract unless it has a provision requiring the business to comply with the consumer data privacy law.

*Senate Amendment "A" (1) eliminates the requirement in the underlying bill that the Office of Policy and Management (OPM) and the Department of Administrative Services (DAS) designate officers to develop procedures and inventory state use of automated systems; (2) modifies the requirements for inventories and policies and procedures; (3) requires the judicial branch to conduct an inventory and establish policies and procedures; (4) requires inventories and policies and

procedures on AI instead of automated systems; (5) eliminates the Connecticut AI Advisory Board in the underlying bill; (6) replaces the task force in the underlying bill with a working group to study similar issues; and (7) delays the effective date of the consumer data privacy contract requirement from July 1, 2023, to October 1, 2023.

EFFECTIVE DATE: July 1, 2023, except the working group provision is effective upon passage and the consumer data privacy provision is effective October 1, 2023.

§ 1-3 & 5 — AI DEFINITION

Under the bill, “AI” means (1) a set of techniques, including machine learning, that is designed to approximate a cognitive task or (2) an artificial system that meets certain criteria. These criteria are as follows:

1. performs tasks under varying and unpredictable circumstances without significant human oversight or can learn from experience and improve performance when exposed to data sets;
2. is developed in any context, including software or physical hardware, and solves tasks requiring human-like perception, cognition, planning, learning, communication, or physical action, or
3. is designed to (a) think or act like a human, including a cognitive architecture or neural network, or (b) act rationally, including an intelligent software agent or embodied robot that achieves goals using perception, planning, reasoning, learning, communication, decision-making, or action.

§§ 1 & 3 — AI INVENTORY

The bill requires DAS, beginning by December 31, 2023, to annually conduct an inventory of all systems that employ AI that executive branch state agencies use. It also requires the judicial branch, beginning by this same date, to conduct an annual inventory of systems the branch uses. A state agency is any department, board, council, commission, or institution, including the offices of the governor, lieutenant governor, state treasurer, attorney general, secretary of the state, and state

comptroller and all operations of an executive branch agency that are funded by the General Fund or a special fund (CGS § 4d-1).

The bill requires that each inventory include at least the following information for each system:

1. the name of the system and its vendor, if any;
2. a description of the system's general capabilities and uses; and
3. whether the system (a) was used to independently make, inform, or materially support a conclusion, decision, or judgment and (b) underwent an impact assessment prior to implementation.

The bill requires (1) DAS to make these inventories publicly available through the state's open data portal and (2) the judicial branch to make them available on its website.

Ongoing Assessments

Beginning February 1, 2024, the bill requires DAS to do ongoing assessments of systems that employ AI that state agencies use to ensure that no system will result in any unlawful discrimination or disparate impact against specified individuals or groups (see below). DAS must do these assessments following policies and procedures OPM establishes (see below).

Beginning February 1, 2024, the bill similarly requires the judicial branch to do ongoing assessments for this same purpose.

§§ 2 & 3 — AI POLICIES AND PROCEDURES

The bill requires OPM to develop and establish policies and procedures by February 1, 2024, on the development, procurement, implementation, utilization, and ongoing assessment of systems that employ AI that state agencies use. It separately requires the judicial branch, by this same date, to develop and establish policies and procedures that address these same subjects with respect to the branch's systems that employ AI.

The bill requires, at a minimum, that OPM's and the judicial branch's

policies and procedures include provisions that:

1. govern the procurement, implementation, and ongoing assessment of the systems;
2. are sufficient to ensure that no system (a) results in any unlawful discrimination against any individual or group of individuals, or (b) has any unlawful disparate impact on any individual or group of individuals on the basis of any actual or perceived differentiating characteristic, including age, genetic information, color, ethnicity, race, creed, religion, national origin, ancestry, sex, gender identity or expression, sexual orientation, marital status, familial status, pregnancy, veteran status, disability, or lawful source of income;
3. require a state agency or the branch to assess a system's likely impact before implementing it; and
4. provide for DAS or the branch to do ongoing assessments of the systems to ensure that no system results in any unlawful discrimination or disparate impact.

The bill allows OPM or the branch to revise the policies and procedures if the OPM secretary or chief court administrator determines a revision is needed. OPM and the branch must post the policies and procedures and any revision on their websites.

Beginning February 1, 2024, the bill prohibits state agencies and the judicial branch from implementing any system that employs AI:

1. unless the agency or branch has performed an impact assessment in accordance with the policies and procedures to ensure the system will not result in any unlawful discrimination or disparate impact and
2. if the agency head or the chief court administrator, as applicable, determines that the system will result in any unlawful discrimination or disparate impact.

§ 5 — AI WORKING GROUP

The bill establishes a 21-member working group to make recommendations to the General Law Committee on certain issues concerning AI. The working group is part of the legislative branch and must engage stakeholders and experts to:

1. make recommendations concerning, and develop best practices for, the ethical and equitable use of AI in state government;
2. make recommendations concerning the policies and procedures the bill requires (see above);
3. assess the White House Office of Science and Technology Policy's "Blueprint for an AI Bill of Rights" and similar materials and make recommendations concerning (a) regulating AI's use in the private sector based on, among other things, the blueprint, and (b) adopting a Connecticut AI bill of rights based on the blueprint; and
4. make recommendations on adopting other legislation concerning AI.

Voting Members

Under the bill, the working group includes the following 10 voting members with their qualifications listed in the table below. In addition to the qualifications noted in the table, all voting members must have professional experience or academic qualifications in matters pertaining to AI, automated systems, government policy, or another related field.

Table: Voting Task Force Member Appointment and Qualifications

Appointing Authority	Member Qualifications
House speaker	Representative of industries developing AI
Senate president pro tempore	Representative of industries using AI
House majority leader	Academic with a concentration in the study of technology and technology policy
Senate majority leader	Academic with a concentration in the study of government and public policy
House minority leader	Representative of an Industry association for industries developing AI

Appointing Authority	Member Qualifications
Senate minority leader	Representative of an industry association for industries using AI
General Law Committee chairpersons (one appointment each)	Not specified
Governor	Two Connecticut Academy of Science and Engineering (CASE) members

The bill requires that initial appointments be made within 30 days after the bill's passage, and appointing authorities must fill any vacancies. Any working group action must be taken by a majority vote of all voting members present, and no action may be taken unless at least 50% of voting members are present.

Non-Voting Ex-Officio Members

The working group also includes 11 nonvoting, *ex-officio* members. These members are the General Law Committee chairpersons and the following officials or their designees:

1. attorney general;
2. state comptroller;
3. state treasurer;
4. DAS commissioner;
5. chief data officer;
6. Freedom of Information Commission executive director;
7. Commission on Women, Children, Seniors, Equity and Opportunity executive director;
8. chief court administrator; and
9. CASE executive director.

Chairpersons and Meetings

The bill makes the General Law Committee chairpersons and the CASE executive director the working group's chairpersons. They must

schedule the group's first meeting within 60 days after the bill's passage.

The bill requires the General Law Committee's administrative staff to serve as the working group's administrative staff.

Report

The bill requires the working group to submit a report on its findings and recommendations to the General Law Committee by February 1, 2024. The working group terminates on this date or the date it submits the report, whichever is later.

§ 4 — CONSUMER DATA PRIVACY LAW

Beginning July 1, 2023, existing law (i.e., the consumer data privacy law) sets a framework for controlling and processing personal data. The framework requires a controller (i.e., an individual or legal entity that determines the purpose and means of processing personal data) to limit the collection of personal data and establish security practices, among other things.

Contract Requirement

Regardless of any state law, the bill prohibits state contracting agencies from entering any contract with a business on or after October 1, 2023, unless the contract contains a provision requiring the business to comply with all applicable provisions of the consumer data privacy law.

By law, a state contracting agency is an executive branch agency, board, commission, department, office, institution, or council. The definition excludes (1) the offices of the Secretary of the State, State Treasurer, State Comptroller, and Attorney General with respect to their constitutional functions and (2) any state agency with respect to contracts specific to the constitutional and statutory functions of the Office of the State Treasurer (CGS § 4e-1).

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 23 Nay 0 (03/09/2023)

Appropriations Committee

Joint Favorable

Yea 45 Nay 8 (05/08/2023)