

General Law Committee JOINT FAVORABLE REPORT

Bill No.: SB-1103
AN ACT CONCERNING ARTIFICIAL INTELLIGENCE, AUTOMATED DECISION-
Title: MAKING AND PERSONAL DATA PRIVACY.
Vote Date: 3/9/2023
Vote Action: Joint Favorable Substitute
PH Date: 2/28/2023
File No.:

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SPONSORS OF BILL:

General Law Committee

CO- SPONSORS OF BILL:

Rep. Holly Cheeseman, 37th District

REASONS FOR BILL:

As the use of automated systems and online activity rises, it is necessary to create policies for these new and quickly expanding areas. In this bill, an Artificial Intelligence (AI) officer will be designated by the Secretary of the Office of Policy and Management. The AI Officer will work to create an automated systems procedure that will be implemented across all state agencies. Another new position designated in SB1103 is an Artificial Intelligence Implementation Officer, who will be designated by the Commissioner of Administrative Services. Once in their role, the AI Implementation Officer will inventory all automated systems being used by each state agency. SB1103 also establishes a Connecticut Artificial Intelligence Advisory Board and Artificial Intelligence Task Force. The advisory board will advise state agencies on matters of AI and automated systems policy while the task force will work to develop and AI Bill of Rights. Data privacy is the main concern when dealing with any online matter. SB1103 includes many provisions concerning the collection of personal data. The new positions, advisory board, and task force will all work to ensure personal data is secure, which is necessary for the protection of Connecticut residents' personal data.

SUBSTITUTE LANGUAGE:

Some sections of this bill were changed for clarity and consistency. No major changes were made.

RESPONSE FROM ADMINISTRATION/AGENCY:

Adel Ebeid, Senior Policy Advisor, Office of Policy and Management and Mark Raymond, Chief Information Officer, Department of Administrative Service:

OPM and DAS believe that the intent of this bill exceeds what is possible to achieve at this point in time. Unintended consequences can happen if SB1103 goes forward as written. It is vital that the bill define artificial intelligence so they know what would be regulated and what AI covers. OPM and DAS have provided the recently released "AI Risk Management Framework" from the National Institute for Standards in Technology. They want the state to understand the emerging federal standards before creating state legislation. Their final comments relate to Section 8 of the bill. OPM and DAS would be interested in participating in a task force prior to enacting the legislation. If the legislation passes, OPM and DAS believe they can do their work without the need for a task force.

State of Connecticut Judicial Branch, External Affairs Division:

The Judicial Branch does not have a stance on the policies, however they have a concern with the separation of powers. The Office of Artificial Intelligence within DAS is responsible for, "developing and establishing ... procedures for use by state agencies in designing, utilizing and procuring automated systems," and inventorying all automated systems, which the Judicial Branch already does internally. It would be inappropriate for DAS to oversee this function in the Judicial Branch. "State agency" should be redefined in this bill to exclude the Judicial Branch.

Michael Werner, Lead Aging Policy Analyst, The Commission on Women, Children, Seniors, Equity & Opportunity (CWCSEO):

CWCSEO supports SB 1103. The commission feels this bill is timely as there has been a growing recognition of the widespread use and impact of algorithmic technologies by state agencies. The broad constituencies overseen by the commission could be impacted by work done in the task force and would like to be included as a regular member. The creation of a task force provides a great support system and advisory resource for state agencies that do not know about the dangers of algorithmic biases.

Tanya Hughes, Executive Director, Commission on Human Rights and Opportunities (CHRO):

CHRO believes that SB 1103 is an important step in addressing the discrimination committed by machines. Digital discrimination is often invisible to the victim and perpetrator. The biggest problem is that the algorithm is trained on biased data. SB 1103 will not eliminate digital discrimination entirely, but there are several necessary steps included in the bill that address the problem.

Colleen Murphy, Executive Director, Freedom of Information (FOI) Commission:

The FOI Commission supports SB 1103. As local and state governments continue to increase the use of algorithms and automated systems, the transparency and accountability outlined in this bill are vital. The commission suggests including their executive director or her designee as a member of the task force to study AI as their expertise would be beneficial.

NATURE AND SOURCES OF SUPPORT:

Rep. Vincent Candelora, House of Representatives, State of Connecticut:

Rep. Candelora supports SB1103. Identity theft is a major problem in CT, and he believes that it is highly important for state agencies and vendors to do everything they can to protect consumer data. Public Act 22-15 exempted state government agencies. This exemption needs to be removed as these agencies handle CT residents' sensitive data. Rep. Candelora believes that there should be clear protocols to responsibly handle data and respond to a security breach. He wants a more proactive approach in preventing g breaches and keeping CT consumer data safe.

Kelsey Eberly, Media Freedom & Information Access (MFIA) Clinic, Yale Law School:

Yale Law School's MFIA Clinic strongly supports passing SB 1103. The clinic's Algorithmic Accountability Project has been working to study the challenges to transparency and accountability posed by the increase in use of algorithms to conduct government business. The clinic also published a report that provides examples of CT's increasing use of algorithms to conduct government business. Ms. Eberly testified that the Algorithmic Accountability Project made it clear that current legal requirements for agencies to evaluate and understand the algorithms they use is inadequate. The need to address these issues is growing rapidly.

Renee Sirbu and Jeremy Otridge, Yale School of Public Health:

Ms. Sirbu and Mr. Otridge support SB 1103. They state that the US is behind international counterparts in addressing and correcting sources of algorithmic bias. It is very challenging because there is a lack in regulatory framework. In most cases, if there is any framework it is weakly enforced. In the digital landscape data privacy is a large concern due to lenient national regulation pertaining to the buying and selling of third-party data. This lack of regulation is irresponsible and dangerous. SB 1103 will pave the way towards the responsible governance, protection, and ethical implementation of AI.

Jeffrey Daniels, Legislative Committee- Co-chair, Connecticut Council on Freedom of Information (CCFOI):

CCFOI supports SB 1103 as it is an important and needed piece of legislation to protect CT residents. The people of Connecticut know little about how and when algorithms are used, how they are designed, and whether they are fair and accurate. The State Department of Education, The Department of Children and Families, and the Department of Administrative services are all examples of agencies that use outdated algorithms according to a report from Yale Law School's MFIA clinic. CCFOI suggests strengthening the evaluation of algorithms and amend section 8 to include the executive director of the FOI Commission. It is most important that government decision-making is done in the public eye and public access to information is guaranteed.

Jess Zaccagnino, Policy Counsel, American Civil Liberties Union of Connecticut (ACLU-CT):

ACLU-CT supports SB 1103. Algorithms and artificial intelligence can perpetuate racial bias and inequity which can change how citizens interact with the government. Under current

regulations, there is no oversight on the use and acquisition of algorithms within state agencies. Ms. Zaccagnino suggests that the Office of Artificial Intelligence report their findings to the public. A final recommendation from ACLU-CT is amending Section 8 to require a diverse range of task force members.

Mitch Pearlman:

Mr. Pearlman offers some recommendations in his testimony. He is concerned that government agencies that use algorithms continue to discriminate against Black American. He highlights a recent report by Yale Law School's MFIA that states governments are using algorithms and machine learning to conduct business at an increasing rate. It is important to recognize that algorithms can make mistakes and Connecticut should look at Vermont's Act 132 to get ideas.

NATURE AND SOURCES OF OPPOSITION:

Kahara Boender, State Policy Director, Computer & Communications Industry Association (CCIA):

CCIA has concerns regarding SB1103. It is important that any legislation passed would avoid potential unintended consequences. In terms of children's data privacy, many proposals being considered would require additional data to be harvested and could even be available to third-part verification applications. Certain requirements would make business accumulate personal information they do not want to collect, and consumers do not want to give up. There is already national attention on the topic of data privacy. Leaders at the federal level have been working on a variety of issues associated with AI and algorithmic-decision making.

Christopher Gilrein, Executive Director-Northeast, TechNet:

TechNet highlights the growing interest in AI, machine learning, and algorithmic processing by policymakers. Based on definitions in the proposed bill, it is clear that some ideas have been simplified. For example, "automated decision support system" uses a very broad definition encompassing basic keyword searches and spreadsheets to a decision that impact's someone's life. TechNet recommends that SB1103 be amended to have a similar scope and remedy for the public sector similar to Public Law 22-15. One of the biggest concerns is having trade secrets exposed. Having information subject to Freedom of Information Act requests does not sit well with many TechNet members and could put vendors at risk.

Alison Klein, Government Relations and Public Policy- State & Local, Indeed:

Indeed feels that SB1103 covers a wide variety of systems and technologies used by the government and does not differentiate. All automated systems are treated the same under this bill; basic automation should not require the same level of scrutiny as solely automated decision-making. The broad scope would mean that government and business would need to spend a lot of time looking through low risk processes. Indeed proposes that SB 1103 only target "Automated final decision systems". By doing this, it would align with CT's omnibus data privacy law.

Reported by: Michael (MJ) Shannon

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