

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 HOUSE BILL 3835

By: Alonso-Sandoval

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6 AS INTRODUCED

7 An Act relating to technology; creating a new title;  
8 creating the Ethical Artificial Intelligence Act;  
9 providing definitions; directing deployers of  
10 automated decision tools to complete and document  
11 certain impact assessment; providing required details  
12 of impact assessment; directing developers of  
13 automated decision tools to complete and document  
14 certain impact assessment; directing deployers and  
15 developers to make impact assessment of certain  
16 updates; mandating that developers and deployers  
17 provide certain impact assessment to the office of  
18 the attorney general; clarifying impact assessments  
19 are confidential; providing an exemption from open  
20 records; requiring developer provide certain  
21 documentation to deployer; requiring developer make  
22 certain information publicly available; permitting  
23 the attorney general to bring certain actions;  
24 requiring attorney general give notice; permitting  
time to cure; clarifying act does not affect certain  
obligations of developers and deployers; prohibiting  
deployers from algorithmic discrimination; permitting  
certain filing with the Office of the Attorney  
General; permitting civil action; clarifying  
applicability of act; providing for codification; and  
providing an effective date.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. NEW LAW A new section of law not to be  
24 codified in the Oklahoma Statutes reads as follows:  
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1 In publishing the decennial Oklahoma Statutes, and the  
2 cumulative supplements after July 1, 2022, West Publishing Company  
3 shall include in such decennial statutes and supplements a new Title  
4 75A, to be designated "Technology".

5 SECTION 2. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1000 of Title 75A, unless there  
7 is created a duplication in numbering, reads as follows:

8 This act shall be known and may be cited as the "Ethical  
9 Artificial Intelligence Act".

10 SECTION 3. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 1001 of Title 75A, unless there  
12 is created a duplication in numbering, reads as follows:

13 As used in this act:

14 1. "Algorithmic discrimination" means the condition in which an  
15 automated decision tool contributes to unjustified differential  
16 treatment or impacts disfavoring people on the basis of race, color,  
17 national origin, citizen or immigration status, families with  
18 children, creed, religious belief or affiliation, sex, marital  
19 status, the presence of any sensory, mental, or physical disability,  
20 age, honorably discharged veteran or military status, sexual  
21 orientation, gender expression or gender identity, or any other  
22 protected class under Federal or Oklahoma law;

23 2. "Artificial intelligence" means a machine-based system that  
24 can, for a given set of human-defined objectives, make predictions,  
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1 recommendations, or decisions influencing a real or virtual  
2 environment;

3 3. "Automated decision tool" means a system or service that  
4 uses artificial intelligence and has been specifically developed and  
5 marketed to, or specifically modified to, make, or be a controlling  
6 factor in making, consequential decisions;

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

11 a. employment, workers management, or self-employment,  
12 including, but not limited to:

13 (1) pay or promotion,

14 (2) hiring or termination, and

15 (3) automated task allocation that automatically  
16 limits, segregates, or classifies employees based  
17 on individual behavior or performance for the  
18 purpose of assigning or determining material  
19 terms or conditions of employment,

20 b. education and vocational training, including, but not  
21 limited to:

22 (1) assessment, including, but not limited to,  
23 detecting student cheating or plagiarism,

24 (2) accreditation,  
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- 1 (3) certification,  
2 (4) admissions, and  
3 (5) financial aid or scholarships,  
4 c. housing or lodging, including rental or short-term  
5 housing or lodging,  
6 d. essential utilities, including electricity, heat,  
7 water, internet or telecommunications access, or  
8 transportation,  
9 e. family planning, including adoption services or  
10 reproductive services, as well as assessments related  
11 to child protective services,  
12 f. health care or health insurance, including mental  
13 health care, dental, or vision,  
14 g. financial services, including a financial service  
15 provided by a mortgage company, mortgage broker, or  
16 creditor,  
17 h. the criminal justice system, including, but not  
18 limited to, risk assessments for pretrial hearings,  
19 sentencing, and parole,  
20 i. legal services, including private arbitration or  
21 mediation,  
22 j. voting, and  
23 k. access to benefits or services or assignment of  
24 penalties;  
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1           5. "Deployer" means a person, partnership, state or local  
2 government agency, or corporation that uses or modifies an automated  
3 decision tool to make a consequential decision;

4           6. "Developer" means a person, partnership, state or local  
5 government agency, or corporation that designs, codes, or produces  
6 an automated decision tool, or substantially modifies an artificial  
7 intelligence system or service for the known intended purpose of  
8 making, or being a controlling factor in making, consequential  
9 decisions, whether for its own use or for use by the deployer;

10          7. "Ethical artificial intelligence" means automated decision  
11 tools that are developed and deployed with reasonable efforts by the  
12 developer and the deployer to:

- 13           a. minimize unlawful discriminatory or biased outputs or  
14            applications,
- 15           b. ensure that automated decision tools are being  
16            operated reliably, safely, and consistently,
- 17           c. protect the data of natural persons by incorporating  
18            robust privacy and data security measures,
- 19           d. prioritize transparency so that the behavior and  
20            functional components of automated decision tools can  
21            be understood in order to enable the identification of  
22            performance issues, safety and privacy concerns,  
23            biases, exclusionary practices, and unintended  
24            outcomes, and  
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1 e. promote individual rights and minimize reasonably  
2 foreseeable harm to individuals resulting from use of  
3 the automated decision tool;

4 8. "Impact assessment" means a documented risk-based evaluation  
5 of an automated decision tool that meets the criteria of this  
6 chapter.

7 9. "Sex" includes pregnancy, childbirth, and related  
8 conditions, gender identity, intersex status, and sexual  
9 orientation.

10 10. "Significant update" means a new version, new release, or  
11 other update to an automated decision tool that materially changes  
12 its principal use, principal intended use, or expected outcome.

13 SECTION 4. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 1002 of Title 75A, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. By January 1, 2025, and annually thereafter, a deployer of  
17 an automated decision tool must complete and document an impact  
18 assessment for any automated decision tool the deployer uses that  
19 includes all of the following:

20 1. A statement of the purpose of the automated decision tool  
21 and its intended benefits, uses, and deployment contexts;

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

1           3. A summary of the types of data collected from natural  
2 persons and processed by the automated decision tool when it is used  
3 to make, or be a controlling factor in making, a consequential  
4 decision;

5           4. A statement of the extent to which the deployer's use of the  
6 automated decision tool is consistent with or varies from the  
7 statement required of the developer by Section 5 of this act;

8           5. An assessment of the reasonably foreseeable risks of  
9 algorithmic discrimination arising from the use of the automated  
10 decision tool known to the deployer at the time of the impact  
11 assessment;

12           6. A description of the safeguards implemented, or that will be  
13 implemented, by the deployer to align use of the automated decision  
14 tool with principles of ethical artificial intelligence and to  
15 address any reasonably foreseeable risks of algorithmic  
16 discrimination arising from the use of the automated decision tool;

17           7. A description of how the automated decision tool will be  
18 used by a natural person, or monitored when it is used, to make, or  
19 be a controlling factor in making, a consequential decision; and

20           8. A description of how the automated decision tool has been or  
21 will be evaluated for validity or relevance.

22           B. By January 1, 2025, and annually thereafter, a developer of  
23 an automated decision tool must complete and document an impact  
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1 assessment of any automated decision tool that it designs, codes, or  
2 produces that includes all of the following:

3 1. A statement of the purpose of the automated decision tool  
4 and its intended benefits, uses, and deployment contexts;

5 2. A description of the automated decision tool's outputs and  
6 how they are used, as intended, to make, or be a controlling factor  
7 in making, a consequential decision;

8 3. A summary of the types of data collected from natural  
9 persons and processed by the automated decision tool when it is used  
10 to make, or be a controlling factor in making, a consequential  
11 decision;

12 4. An assessment of the reasonably foreseeable risks of  
13 algorithmic discrimination arising from the intended use or  
14 foreseeable misuse of the automated decision tool;

15 5. A description of the measures taken by the developer to  
16 incorporate principles of ethical artificial intelligence and to  
17 mitigate the risk known to the developer of algorithmic  
18 discrimination arising from the use of the automated decision tool;  
19 and

20 6. A description of how the automated decision tool is intended  
21 to be used by a natural person, or monitored when it is used, to  
22 make, or be a controlling factor in making, a consequential  
23 decision.



1 C. A deployer or developer must, in addition to the impact  
2 assessment required by subsections A and B of this section, perform,  
3 as soon as feasible, an impact assessment with respect to any  
4 significant update.

5 D. Upon the request of the Office of the Attorney General, a  
6 developer or deployer must provide any impact assessment that it  
7 performed pursuant to this section to the office of the Attorney  
8 General.

9 E. Impact assessments provided pursuant to subsection D of this  
10 section are confidential and exempt from records requests.

11 SECTION 5. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1003 of Title 75A, unless there  
13 is created a duplication in numbering, reads as follows:

14 A developer must provide a deployer with a statement regarding  
15 the intended uses of the automated decision tool and documentation  
16 regarding all of the following:

17 1. The known limitations of the automated decision tool,  
18 including any reasonably foreseeable risks of algorithmic  
19 discrimination arising from its intended use;

20 2. A description of the types of data used to program or train  
21 the automated decision tool; and

22 3. A description of how the automated decision tool was  
23 evaluated for validity and the ability to be explained before sale  
24 or licensing.

1 SECTION 6. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1004 of Title 75A, unless there  
3 is created a duplication in numbering, reads as follows:

4 A developer must make publicly available, in a readily  
5 accessible manner, a clear policy that provides a summary of both of  
6 the following:

7 1. The types of automated decision tools currently made  
8 available to others by the developer; and

9 2. How the developer manages the reasonably foreseeable risks  
10 of algorithmic discrimination that may arise from the use of the  
11 automated decision tools it currently makes available to others.

12 SECTION 7. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1005 of Title 75A, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. 1. The Attorney General may bring an action in the name of  
16 the state, or on behalf of persons residing in the state, to enforce  
17 this act. For actions brought by the Attorney General to enforce  
18 this act, a violation of this act is an unfair or deceptive act in  
19 trade or commerce for the purpose of applying the Oklahoma Consumer  
20 Protection Act, Section 751 et seq. of Title 15 of the Oklahoma  
21 Statutes.

22 2. The Office of the Attorney General, before commencing an  
23 action under the Oklahoma Consumer Protection Act, Section 751 et  
24 seq. of Title 15 of the Oklahoma Statutes, must provide forty-five  
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1 (45) days written notice to a deployer or developer of the alleged  
2 violation of this act and provide the deployer or developer with an  
3 opportunity to cure the alleged violation. The developer or deployer  
4 may cure the noticed violation within forty-five (45) days of  
5 receiving the written notice.

6 B. Nothing in this act shall be construed to limit or otherwise  
7 affect the obligations of developers and deployers under applicable  
8 laws, rules, or regulations relating to data privacy or security.

9 SECTION 8. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 1006 of Title 75A, unless there  
11 is created a duplication in numbering, reads as follows:

12 A. A deployer shall not use an automated decision tool that  
13 results in algorithmic discrimination.

14 B. A violation of subsection A of this section shall constitute  
15 discrimination. Harmed parties shall have the right to file a  
16 complaint with the Office of the Attorney General and to bring a  
17 civil action.

18 SECTION 9. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1007 of Title 75A, unless there  
20 is created a duplication in numbering, reads as follows:

21 This act does not apply to a deployer with fewer than fifty (50)  
22 employees unless, as of the end of the prior calendar year, the  
23 deployer deployed an automated decision tool that affected more than  
24 nine-hundred ninety-nine (999) people per year.  
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SECTION 10. This act shall become effective November 1, 2024.

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