

AMENDED IN ASSEMBLY APRIL 10, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 1064

Introduced by Assembly Member Bauer-Kahan

February 20, 2025

An act to add Chapter 25.1 (commencing with Section 22757.20) to Division 8 of the Business and Professions Code, relating to artificial intelligence.

LEGISLATIVE COUNSEL’S DIGEST

AB 1064, as amended, Bauer-Kahan. Leading Ethical AI Development (LEAD) for Kids Act.

The California AI Transparency Act requires a person that creates, codes, or otherwise produces a generative artificial intelligence system that has over 1,000,000 monthly visitors or users and is publicly accessible within the geographic boundaries of the state to make available an AI detection tool at no cost to the user that, among other things, allows a user to assess whether image, video, or audio content, or content that is any combination thereof, was created or altered by the covered provider’s generative artificial intelligence system.

This bill, the Leading Ethical AI Development (LEAD) for Kids Act, would establish, and provide for the membership of, the LEAD for Kids Standards Board in the Government Operations Agency and require the Governor to appoint an executive officer of the board, subject to Senate confirmation, who would hold the office at the pleasure of the Governor. The act would require, on or before January 1, ~~2027~~, 2028, the board to adopt regulations governing, among other things, criteria for determining the level of estimated risk of a covered product based on an analysis that weighs the likelihood and severity of reasonably

foreseeable adverse impacts against the anticipated benefits of the covered product and denominating the risk levels, as prescribed. The act would define “covered product” to mean an artificial intelligence system that is intended to, or highly likely to, be used by ~~children, pursuant to regulations adopted by the board.~~ *children, used to process a child’s personal information, or applied directly to a child, but the bill would also require the board to adopt regulations governing criteria for developers to determine if an artificial intelligence system is a covered product.*

The act would, among other things, require, on or before July 1, ~~2027,~~ 2028, a developer to do certain things with respect to a covered product, including preparing and submitting to the board ~~a~~ *any* risk level assessment ~~required by regulation~~ in order to determine the appropriate risk classification of the covered product. The act would authorize the board to refer violations of the act to the Attorney General and would authorize the Attorney General to recover a certain civil penalty, as prescribed. The act would authorize a child who suffers actual harm as a result of ~~a violation of the act,~~ *the use of a covered product,* or a parent or guardian acting on behalf of that child, to bring a civil action to recover, among other relief, actual damages.

The act would create in the State Treasury the LEAD for Kids AI Fund into which any civil penalty recovered by the Attorney General pursuant to the act is deposited and would make the moneys in the fund available, only upon appropriation by the Legislature, for the purpose of administering the act.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Chapter 25.1 (commencing with Section
- 2 22757.20) is added to Division 8 of the Business and Professions
- 3 Code, to read:
- 4
- 5 CHAPTER 25.1. LEADING ETHICAL AI DEVELOPMENT (LEAD)
- 6 FOR KIDS
- 7
- 8 22757.20. This chapter shall be known as the Leading Ethical
- 9 AI Development (LEAD) for Kids Act.
- 10 22757.21. For purposes of this chapter:

1 (a) ~~“Adverse impacts”~~ *are impact* means a significant negative
2 ~~impacts impact~~ to a child’s health, safety, privacy, educational
3 opportunities or outcomes, or access to essential services or
4 benefits.

5 (b) “Artificial intelligence” means an engineered or
6 machine-based system that varies in its level of autonomy and that
7 can, for explicit or implicit objectives, infer from the input it
8 receives how to generate outputs that can influence physical or
9 virtual environments.

10 (c) *“Biometric information” has the meaning defined in Section*
11 *1798.140 of the Civil Code.*

12 ~~(e)~~

13 (d) “Board” means the LEAD for Kids Standards Board created
14 pursuant to this chapter.

15 ~~(d)~~

16 (e) “Child” means a natural person under 18 years of age who
17 resides in this state.

18 (f) *“Companion chatbot” means a generative artificial*
19 *intelligence system with a natural language interface that provides*
20 *adaptive, human-like responses to user inputs and is intended to,*
21 *or foreseeably will, be used to meet a user’s social needs, exhibits*
22 *anthropomorphic features, and is able to sustain a relationship*
23 *with the user across multiple interactions.*

24 (g) *“Consent” means affirmative, written agreement to a specific*
25 *purpose that is disclosed in clear and conspicuous terms to the*
26 *parent or guardian.*

27 ~~(e)~~

28 (h) “Covered product” means an artificial intelligence system
29 that is intended to, or highly likely to, be ~~used by children, pursuant~~
30 ~~to regulations adopted by the board.~~ *any of the following:*

31 (1) *Used by children.*

32 (2) *Used to process a child’s personal information.*

33 (3) *Applied directly to a child.*

34 ~~(f)~~

35 (i) “Deployer” means a person, partnership, state or local
36 governmental agency, corporation, or ~~developer, or any contract~~
37 ~~or agent of those entities,~~ *developer* that uses a covered product
38 for a commercial or public purpose.

39 ~~(g)~~

(j) “Developer” means a person, partnership, state or local governmental agency, corporation, or deployer that designs, codes, substantially modifies, or otherwise produces a covered product.

(k) “Generative artificial intelligence” means artificial intelligence that can generate derived synthetic content, including text, images, video, and audio, that emulates the structure and characteristics of the artificial intelligence’s training data.

~~(h)~~

(l) “Incident” means a discreet occurrence of an adverse impact to a child caused by a covered product.

~~(i)~~

(m) “Personal information” has the meaning defined in Section 1798.140 of the Civil Code.

~~(j) “Prohibited covered product” means a product that poses a prohibited risk pursuant to regulations adopted by the board.~~

~~(k)~~

(n) “Risk” means the composite measure of an event’s likelihood of occurring and the magnitude or degree of the consequences any adverse impact of the corresponding event.

~~(t)~~

(o) “Risk level assessment” means a structured evaluation of an artificial intelligence’s a covered product’s known or reasonably foreseeable risks to children.

(p) “Social score” means an evaluation or classification of a child or group of children based on social behavior or personal characteristics for a purpose that is likely to result in an adverse impact to the child or children and is either of the following:

(1) Unrelated to the context in which the information relating to the social behavior or personal characteristics was gathered.

(2) Disproportionate or unjustified relative to the social behavior.

~~(m)~~

(q) “Substantially-modifies” modify” means to create a new version, release, update, or other modification to a covered product that materially changes its uses or outputs.

~~(n)~~

(r) “System information label” means a consumer-facing label that includes information about a covered product’s purpose, functioning, data sources, and risk level.

~~(o)~~

1 (s) “Trade secrets” has the meaning defined in Section 3426.1
2 of the Civil Code.

3 22757.22. (a) (1) There is hereby established the LEAD for
4 Kids Standards Board in the Government Operations Agency. The
5 Governor shall appoint an executive officer of the board, subject
6 to Senate confirmation, who shall hold the office at the pleasure
7 of the Governor. The executive officer shall be the administrative
8 head of the board and shall exercise all duties and functions
9 necessary to ensure that the responsibilities of the board are
10 successfully discharged.

11 (2) The board shall be composed of the following nine members:

12 (A) A member of academia appointed by the Governor and
13 subject to Senate confirmation.

14 (B) ~~A technologist~~ *An artificial intelligence developer or*
15 *representative of a company that develops artificial intelligence*
16 *systems* appointed by the Governor and subject to Senate
17 confirmation.

18 (C) A member of civil society appointed by the Governor and
19 subject to Senate confirmation.

20 (D) An expert in technology ethics appointed by the Governor
21 and subject to Senate confirmation.

22 (E) An expert in education appointed by the Governor and
23 subject to Senate confirmation.

24 (F) A member of academia with expertise in artificial
25 intelligence appointed by the Speaker of the Assembly.

26 (G) A member of academia with expertise in social science
27 appointed by the Speaker of the Assembly.

28 (H) Two members appointed by the Senate Committee on Rules.

29 (3) A member of the board shall meet all of the following
30 criteria:

31 (A) (i) A member shall be free of direct and indirect external
32 influence and shall not seek or take instructions from another.

33 (ii) *A member’s employment by a company that develops*
34 *artificial intelligence does not by itself constitute a violation of*
35 *this subparagraph.*

36 (B) A member shall not take an action or engage in an
37 occupation, whether gainful or not, that is incompatible with the
38 member’s duties.

1 (C) A member shall not, either at the time of the member's
2 appointment or during the member's term, have a financial interest
3 in an entity that is subject to regulation by the board.

4 (4) A member of the board shall serve at the pleasure of the
5 appointing authority but shall serve for no longer than eight
6 consecutive years.

7 (b) (1) The board shall ensure that regulations adopted pursuant
8 to this chapter are consistent with widely accepted standards for
9 governance of artificial intelligence, taking into account
10 technological standards, technological advances, scientific literature
11 and advances, and societal changes as they pertain to risks posed
12 to children by covered products.

13 (2) The board shall consult with individuals from the public *and*
14 *state agencies* who possess expertise directly related to the board's
15 functions, including technical, ethical, regulatory, and other
16 relevant *issue* areas.

17 (c) On or before January 1, ~~2027~~, 2028, the board shall adopt
18 regulations governing all of the following:

19 (1) Criteria for developers to determine if an artificial
20 intelligence system is a *covered product* subject to this chapter.

21 (2) Criteria for determining the level of estimated risk of a
22 covered product based on an analysis that weighs the likelihood
23 and severity of reasonably foreseeable adverse impacts against the
24 anticipated benefits of the covered product and denominating the
25 risk levels pursuant to all of the following:

26 (A) "Prohibited risk," which shall be applied to a covered
27 product for which the costs of foreseeable adverse impacts likely
28 outweigh the benefits and includes, but is not limited to, all of the
29 following:

30 ~~(i) Anthropomorphic chatbots that offer companionship and are~~
31 ~~likely to cause the child to develop an ongoing emotional~~
32 ~~attachment or to manipulate the child's behavior in harmful ways.~~

33 ~~(ii) Artificial intelligence used in educational settings that~~
34 ~~collects or processes biometric data of children.~~

35 ~~(iii) Social scoring systems based on a child's behavior or~~
36 ~~personal characteristics.~~

37 ~~(iv) Artificial intelligence that detects the emotions of children.~~

38 ~~(v) Artificial intelligence used to develop facial recognition~~
39 ~~databases through untargeted scraping of children's facial images~~
40 ~~from the internet or surveillance footage.~~

1 (i) A companion chatbot that can foreseeably do any of the
2 following:

3 (I) Attempt to provide mental health therapy to the child.

4 (II) Cause the child to develop a harmful ongoing emotional
5 attachment to the companion chatbot.

6 (III) Manipulate the child to engage in harmful behavior.

7 (ii) A covered product used to do any of the following:

8 (I) Collect or process a child's biometric information for any
9 purpose other than confirming a child's identity, with the consent
10 of the child's parent or guardian, in order to grant access to a
11 service, unlock a device, or provide physical access to an
12 educational institution.

13 (II) Generate a social score.

14 (III) (ia) Assess the emotional state of a child.

15 (ib) This subclause does not apply to an assessment of the
16 emotional state of a child in a medical setting with the consent of
17 the child's parent or guardian or that is needed to provide
18 emergency care if the child's parent or guardian is unavailable.

19 (IV) Scrape an image that the developer or deployer knows, or
20 reasonably should know, is a child's face from the internet or from
21 surveillance footage without the consent of the child's parent or
22 guardian.

23 (B) "High risk," which shall be applied to a covered product
24 for which the benefits may outweigh the costs of foreseeable
25 adverse impacts and includes, but is not limited to, ~~using artificial~~
26 ~~intelligence to do a covered product that does any of the following:~~

27 (i) ~~Perform~~ Performs a function related to pupil assessment or
28 ~~discipline~~ discipline, including, but not limited to, a covered
29 product that determines access or admission, assigns children to
30 educational institutions or programs, evaluates learning outcomes
31 of children, assesses the appropriate level of education for a child,
32 materially influences the level of education a child will receive or
33 be able to access, or monitors and detects prohibited behavior of
34 students during tests.

35 (ii) Target advertisements to children.

36 (iii) For a specific purpose that would otherwise qualify as a
37 prohibited risk, as set forth in regulations adopted by the board,
38 ~~provided that if the use is strictly necessary to prevent threats to~~
39 ensure a child's mental or physical health or safety.

1 (C) “Moderate risk,” which shall be applied to a covered product
2 for which the benefits ~~convincingly~~ *reasonably* outweigh the costs
3 of foreseeable adverse impacts.

4 (D) “Low risk,” which shall be applied to a covered product for
5 which there are few, if any, foreseeable adverse impacts.

6 (3) Guidance for developers to classify covered products
7 according to risk level, as described in paragraph (2).

8 (4) Reasonable steps a developer of a prohibited risk covered
9 product is required to take to ensure that children are not able to
10 access the product.

11 (5) Requirements for predeployment and postdeployment
12 assessments, including, but not limited to, *an assessment of* the
13 purpose for which the covered product is intended, technical
14 capabilities, limitations and functionality, specific adverse impacts,
15 internal governance, and the timing for the development and
16 submission to the board of those evaluations and assessments. The
17 board shall also provide guidance *consistent with Section 22757.28*
18 to avoid duplication of efforts with respect to any other state or
19 federal laws that require similar documentation.

20 (6) Requirements for artificial intelligence information labels
21 to ensure that, for each covered product, the public is able to access
22 baseline information on the covered product, including the covered
23 product’s purpose, a description of how it works, its risk level,
24 potential adverse impacts, and any other information necessary to
25 assess the impact of the system on children.

26 (7) Standards for audits of covered products, including the
27 timing of audits, qualifications and training of auditors, rules
28 governing auditor independence and oversight, and audit reports
29 that auditors are required to provide to the board. The board shall
30 also establish rules for the protection of trade secrets in connection
31 with the performance of audits.

32 (8) The creation of an incident reporting mechanism that enables
33 third parties to report *potential* incidents of adverse impacts
34 resulting from the use of a covered product directly to a developer
35 or the board.

36 (9) The creation of a publicly accessible registry for covered
37 products that contains high-level summaries of audit reports,
38 incident reports, system information labels, and any additional
39 information specified by the board.

1 (10) (A) Registration fees for developers that do not exceed
2 the reasonable regulatory costs incident to administering this
3 chapter.

4 (B) A registration fee described by this paragraph shall be
5 deposited into the LEAD for Kids AI Fund established pursuant
6 to Section 22757.27.

7 22757.23. (a) On or before July 1, ~~2027~~, 2028, a developer
8 shall do all of the following with respect to a covered product:

9 (1) Register the covered product using the registry developed
10 by the board.

11 (2) Prepare and submit to the board ~~a~~ *any* risk level assessment
12 *required by regulation* in order to determine the appropriate risk
13 classification of the covered product.

14 (3) Develop and implement ~~an artificial intelligence system~~
15 *information label for the covered product, as required by*
16 *regulation*.

17 (b) In addition to the duties required under subdivision (a), all
18 of the following apply:

19 (1) With respect to a covered product that poses a prohibited
20 risk, the developer shall take reasonable steps to ~~ensure that~~ *prevent*
21 ~~children are not able to access~~ *from accessing* the product.

22 (2) With respect to a high-risk covered product, the developer
23 shall conduct predeployment and postdeployment assessments
24 pursuant to the requirements established by the board.

25 (c) With respect to incident reports, a developer shall do all of
26 the following:

27 (1) Within 30 days of learning of an incident, file a report with
28 the board with any required information.

29 (2) Within 30 days of the substantiation of the incident by the
30 board, file a description of the incident on the developer's internet
31 website.

32 (d) With respect to licensing the covered product to deployers,
33 a developer shall do both of the following:

34 (1) Ensure that the terms of the license require it to be used in
35 a manner that would not ~~change~~ *elevate* the covered product's risk
36 level to a higher level of risk.

37 (2) Revoke the license if the developer knows, or should know,
38 that the deployer is using the covered product in a manner that is
39 inconsistent with the terms required under paragraph (1).

(e) A developer shall not *knowingly or recklessly use the personal information of a child to train a covered product with the personal information of a child unless the child's parent or guardian unless the child, if the child is at least 13 years of age and less than 16 years of age, or the child's parent or guardian, if the child is less than 13 years of age, has affirmatively provided written* consent to the developer to use the child's personal information for that specific purpose.

(f) (1) On or after July 1, ~~2027~~, 2028, a developer shall submit a covered product it develops to an independent third party audit on a schedule determined by the board according to the risk level posed by the covered product.

(2) A developer whose covered product is subject to an audit shall provide the auditor with all necessary documentation and information for the auditor to perform the audit.

(3) If an auditor discovers substantial noncompliance with this chapter, the auditor shall promptly notify the board.

22757.24. (a) A deployer of a prohibited risk covered product shall implement any applicable procedures adopted by the developer to ~~ensure that prevent a child is not able to access from~~ *accessing* the product.

(b) A deployer of a covered product shall publicly display developer license usage requirements. A deployer's usage requirements shall not change the covered product's risk level to a higher level of risk.

(c) With respect to incident reports, a deployer shall do both of the following:

(1) Within 30 days of learning of the incident, file a report with the board with any required information.

(2) Within 30 days of the substantiation of the incident by the board, file a description of the incident on the deployer's internet website.

(d) A deployer shall not ~~opt in to~~ *enter* a data sharing agreement that allows the developer to train a covered product with the personal information of a child unless ~~the child's parent or guardian child, if the child is at least 13 years of age and less than 16 years of age, or the child's parent or guardian, if the child is less than 13 years of age, has affirmatively provided written~~ consent to the deployer to use the child's personal information for that specific purpose.

1 22757.25. A developer or deployer, or any contractor or
2 subcontractor of a developer or deployer, shall not do any of the
3 following:

4 (a) Prevent an employee from disclosing information to the
5 Attorney General pertaining to a reasonable belief supporting the
6 existence of a potential violation of this chapter.

7 (b) Retaliate against an employee for disclosing information
8 under subdivision (a).

9 (c) Make false or materially misleading statements related to
10 its compliance with obligations imposed under this chapter.

11 22757.26. (a) The board may refer violations of this chapter
12 to the Attorney General.

13 (b) With respect to violations related to the risk level
14 classification of a covered product, the board may allow the
15 developer to take corrective action if the board determines that the
16 circumstances indicate that the erroneous classification was neither
17 unreasonable nor in bad faith. If the developer fails to do so within
18 30 days, the board may refer the matter to the Attorney General.

19 (c) Upon receiving a referral from the board, the Attorney
20 General may bring an action for all of the following:

21 (1) A civil penalty of twenty-five thousand dollars (\$25,000)
22 for each violation.

23 (2) Injunctive or declaratory relief.

24 (3) Reasonable attorney's fees.

25 (d) A child who suffers actual harm as a result of ~~a violation of~~
26 ~~this chapter,~~ *the use of a covered product*, or a parent or guardian
27 acting on behalf of that child, may bring a civil action to recover
28 all of the following:

29 (1) Actual damages.

30 (2) Punitive damages.

31 (3) Reasonable attorney's fees and costs.

32 (4) Injunctive or declaratory relief.

33 (5) Any other relief the court deems proper.

34 22757.27. (a) There is hereby created in the State Treasury
35 the LEAD for Kids AI Fund into which any civil penalty recovered
36 by the Attorney General pursuant to Section 22757.26 shall be
37 deposited.

38 (b) Moneys in the fund shall be available, only upon
39 appropriation by the Legislature, for the purpose of administering
40 this chapter.

- 1 22757.28. (a) A developer or deployer who is required to
2 comply with another law of this state that requires risk assessment
3 of a covered product that is equally or more stringent than this
4 chapter need not comply with any duplicative requirements under
5 this chapter.
- 6 (b) Before January 1, 2028, the board shall publish a description
7 of the laws described by subdivision (a) and provide guidance to
8 developers and deployers regarding compliance with subdivision
9 (a).
- 10 (c) A developer or deployer that relies on the guidance provided
11 under subdivision (b) is presumed to be compliant with subdivision
12 (a).