

AMENDED IN SENATE AUGUST 15, 2024

AMENDED IN SENATE JULY 3, 2024

AMENDED IN SENATE JUNE 24, 2024

AMENDED IN SENATE JUNE 3, 2024

AMENDED IN ASSEMBLY MAY 16, 2024

AMENDED IN ASSEMBLY APRIL 24, 2024

AMENDED IN ASSEMBLY APRIL 22, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 2930

Introduced by Assembly Member Bauer-Kahan

February 15, 2024

An act to add Chapter 25 (commencing with Section 22756) to Division 8 of the Business and Professions Code, relating to artificial intelligence.

LEGISLATIVE COUNSEL’S DIGEST

AB 2930, as amended, Bauer-Kahan. Automated decision tools.

The Unruh Civil Rights Act provides that all persons within the jurisdiction of this state are free and equal and, regardless of their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status, are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

The California Fair Employment and Housing Act establishes the Civil Rights Department within the Business, Consumer Services, and Housing Agency and requires the department to, among other things, bring civil actions to enforce the act.

~~Existing law, the California Consumer Privacy Act of 2018 (CCPA), grants to a consumer various rights with respect to personal information, as defined, that is collected by a business, as defined, including the right to request that a business delete personal information about the consumer that the business has collected from the consumer. Existing law, the California Privacy Rights Act of 2020, an initiative measure approved by the voters as Proposition 24 at the November 3, 2020, statewide general election, amended, added to, and reenacted the CCPA. The CCPA establishes the California Privacy Protection Agency with full administrative power, authority, and jurisdiction to implement and enforce the CCPA.~~

~~This bill would, among other things, require, as prescribed, a deployer, as defined, and a developer of an automated decision tool, as defined, to perform an impact assessment on any automated decision tool before the tool is first deployed and annually thereafter that includes, among other things, a statement of the purpose of the automated decision tool and its intended benefits, uses, and deployment contexts. The bill would require a deployer or developer to provide the impact assessment to the California Privacy Protection Agency within 30 days of a request by the agency and would punish a violation of that provision with an administrative fine of not more than \$10,000 to be recovered in an administrative enforcement action brought by the agency. The bill would exempt an impact assessment from the California Public Records Act, as specified.~~

~~This bill would require the California Privacy Protection Agency to, by January 1, 2027, establish a staggered schedule that identifies when each state government deployer, as defined, is required to comply with specified deployer requirements for each deployed automated decision tool. The bill would require full compliance by January 1, 2031. The bill would require a state government deployer to, by January 1, 2026, provide to the agency a list of automated decision tools initially deployed before January 1, 2025.~~

~~This bill would require a deployer to, prior to an automated decision tool making a consequential decision, as defined, or being a substantial factor, as defined, in making a consequential decision, notify any natural person that is subject to the consequential decision that an automated~~

decision tool is being used and to provide that person with specified information. The bill would require a deployer that has deployed an automated decision tool to make, or be a substantial factor in making, a consequential decision concerning a natural person, to provide to the natural person, among other things, an opportunity to correct any incorrect personal data. The bill would, if a consequential decision is made solely based on the output of an automated decision tool, require a deployer to, if technically feasible, accommodate a natural person's request to not be subject to the automated decision tool and to instead be subject to an alternative selection process or accommodation, as prescribed.

This bill would prohibit a deployer from using an automated decision tool if an impact assessment identifies a reasonable risk of algorithmic discrimination, which the bill would define to mean the condition in which an automated decision tool contributes to unlawful discrimination, including differential treatment or impacts disfavoring people based on their actual or perceived race, color, ethnicity, sex, religion, age, national origin, limited English proficiency, disability, veteran status, genetic information, reproductive health, or any other classification protected by state or federal law, until that risk has been mitigated. The bill would also prohibit a developer from making available to potential deployers an automated decision tool until the risk of algorithmic discrimination has been mitigated.

~~This bill would authorize certain public attorneys, including the Attorney General, and the Civil Rights Department to bring a civil action against a deployer or developer for a violation of the bill and would authorize a court to award, only in an action for a violation involving algorithmic discrimination, a civil penalty of \$25,000 per violation. The bill would require a public attorney or the Civil Rights Department to, before commencing an action for injunctive relief, provide 45 days' written notice to a deployer or developer of the alleged violations of the bill and would provide a deployer or developer a specified opportunity to cure those violations, if the deployer or developer provides the person who gave the notice an express written statement, under penalty of perjury, that the violation has been cured and that no further violations shall occur. By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.~~

~~Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public~~

~~officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.~~

~~This bill would make legislative findings to that effect.~~

~~This bill would declare that its provisions further the purposes and intent of the California Privacy Rights Act of 2020.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Chapter 25 (commencing with Section 22756)
2 is added to Division 8 of the Business and Professions Code, to
3 read:

4

5 CHAPTER 25. AUTOMATED DECISION TOOLS

6

7 22756. As used in this chapter:

8 (a) "Algorithmic discrimination" means the condition in which
9 an automated decision tool contributes to unlawful discrimination,
10 including differential treatment or impacts disfavoring people
11 based on their actual or perceived race, color, ethnicity, sex,
12 religion, age, national origin, limited English proficiency, disability,
13 veteran status, genetic information, reproductive health, or any
14 other classification protected by state or federal law.

15 (b) "Artificial intelligence" means an engineered or
16 machine-based system that varies in its level of autonomy and that
17 can, for explicit or implicit objectives, infer from the input it
18 receives how to generate outputs that can influence physical or
19 virtual environments.

20 (c) "Automated decision tool" means an artificial intelligence
21 system or service that makes a consequential decision, or is a
22 substantial factor in making consequential decisions.

23 (d) "Consequential decision" means a decision or judgment that
24 has a legal, material, or similarly significant effect on an

1 individual's life relating to access to government benefits or
2 services, assignments of penalties by government, or the impact
3 of, access to, or the cost, terms, or availability of, ~~any of the~~
4 ~~following:~~ *employment with respect to all of the following:*

5 (1) ~~Employment with respect to all of the following:~~

6 (A)

7 (1) Pay or promotion.

8 (B)

9 (2) Hiring or termination.

10 (C)

11 (3) Automated task allocation that limits, segregates, or classifies
12 employees for the purpose of assigning or determining material
13 terms or conditions of employment.

14 (2) ~~Education and vocational training as it relates to all of the~~
15 ~~following:~~

16 (A) ~~Assessment or placement.~~

17 (B) ~~Detecting student cheating or plagiarism.~~

18 (C) ~~Accreditation.~~

19 (D) ~~Certification.~~

20 (E) ~~Admissions or enrollment.~~

21 (F) ~~Discipline.~~

22 (G) ~~Evaluation.~~

23 (H) ~~Financial aid or scholarships.~~

24 (3) ~~Housing or lodging, including rental or short-term housing~~
25 ~~or lodging.~~

26 (4) ~~All of the following essential utilities:~~

27 (A) ~~Electricity.~~

28 (B) ~~Heat.~~

29 (C) ~~Water.~~

30 (D) ~~Internet or telecommunications access.~~

31 (E) ~~Transportation.~~

32 (5) ~~Family planning.~~

33 (6) ~~Adoption services, reproductive services, or assessments~~
34 ~~related to child protective services.~~

35 (7) ~~Health care or health insurance, including mental health~~
36 ~~care, dental, or vision.~~

37 (8) ~~Financial services, including a financial service provided~~
38 ~~by a mortgage company, mortgage broker, or creditor.~~

39 (9) ~~All of the following aspects of the criminal justice system:~~

40 (A) ~~Risk assessments for pretrial hearings.~~

1 ~~(B) Sentencing.~~

2 ~~(C) Parole.~~

3 ~~(10) Legal services.~~

4 ~~(11) Private arbitration.~~

5 ~~(12) Mediation.~~

6 ~~(13) Voting.~~

7 (e) “Deployer” means a person, partnership, ~~local government~~
8 ~~agency~~, developer, corporation, or any contractor or agent of those
9 entities, that uses an automated decision tool to make a
10 consequential decision.

11 (f) “Developer” means a person, partnership, ~~state or local~~
12 ~~government agency~~, or corporation that designs, codes, or produces
13 an automated decision tool, or substantially modifies an artificial
14 intelligence system or service for the intended purpose of making,
15 or being a substantial factor in making, consequential decisions,
16 whether for its own use or for use by a third party.

17 (g) “Impact assessment” means a documented risk-based
18 evaluation of an automated decision tool that meets the criteria of
19 Section 22756.1.

20 (h) “Sex” includes pregnancy, childbirth, and related conditions,
21 gender identity, intersex status, and sexual orientation.

22 ~~(i) “State government deployer” means a state government~~
23 ~~agency that uses an automated decision tool to make a~~
24 ~~consequential decision.~~

25 ~~(j)~~

26 (i) “Substantial factor” means an element of a decisionmaking
27 process that is capable of altering the outcome of the process.

28 ~~(k)~~

29 (j) “Substantial modification” means a new version, new release,
30 or other update to an automated decision tool that materially
31 changes its uses, intended uses, or outcomes.

32 ~~(l)~~

33 (k) “Unlawful discrimination” means any act that violates
34 Section 51 of the Civil Code, any act that constitutes an unlawful
35 practice or unlawful employment practice under Part 2.8
36 (commencing with Section 12900) of Division 3 of Title 2 of the
37 Government Code, or any other practice or act that otherwise
38 violates a state or federal law against discrimination.

1 22756.1. (a) (1) Subject to paragraph (2), a deployer shall
2 perform an impact assessment on any automated decision tool
3 before the tool is first deployed and annually thereafter.

4 (2) (A) With respect to an automated decision tool that a
5 deployer first used prior to January 1, 2025, the deployer shall
6 perform an impact assessment on that automated decision tool
7 before January 1, 2026, and annually thereafter.

8 (B) This subdivision does not require a deployer to perform an
9 impact assessment on an automated decision tool before using it
10 if all of the following are true:

11 (i) The deployer uses the automated decision tool only for its
12 intended use as determined by the developer of the automated
13 decision tool.

14 (ii) The deployer does not make any substantial modifications
15 to the automated decision tool.

16 (iii) The developer of the automated decision tool has performed
17 any impact assessment on the automated decision tool required by
18 subdivision (c).

19 (iv) The developer of the automated decision tool has provided
20 documentation to the deployer pursuant to Section 22756.3.

21 (b) A deployer shall ensure that an impact assessment prepared
22 pursuant to subdivision (a) includes all of the following:

23 (1) A statement of the purpose of the automated decision tool
24 and its intended benefits, uses, and deployment contexts.

25 (2) A description of all of the following:

26 (A) The personal characteristics or attributes that the automated
27 decision tool will measure or assess.

28 (B) The method by which the automated decision tool measures
29 or assesses those attributes or characteristics.

30 (C) How those attributes or characteristics are relevant to the
31 consequential decisions for which the automated decision tool will
32 be used.

33 (D) The automated decision tool's outputs.

34 (E) How outputs are used to make, or be a substantial factor in
35 making, a consequential decision.

36 (3) A summary of the categories of information collected from
37 natural persons and processed by the automated decision tool when
38 it is used to make, or be a substantial factor in making, a
39 consequential decision, including, but not limited to, all of the
40 following:

1 (A) Each category of personal information identified by
2 reference to the applicable subparagraph enumerated under
3 paragraph (1) of subdivision (v) of Section 1798.140 of the Civil
4 Code.

5 (B) Each category of sensitive personal information identified
6 by reference to the applicable paragraph and subparagraph
7 enumerated under subdivision (ae) of Section 1798.140 of the Civil
8 Code.

9 (C) Each category of information related to a natural person's
10 receipt of sensitive services, as defined in Section 56.05 of the
11 Civil Code, identified by reference to the specific category of
12 sensitive service enumerated in the definition.

13 (4) A statement of the extent to which the deployer's use of the
14 automated decision tool is consistent with or varies from the
15 statement required of the developer by Section 22756.3.

16 (5) An analysis of the risk of algorithmic discrimination,
17 including adverse impacts on the basis of sex, race, color, ethnicity,
18 religion, age, national origin, limited English proficiency, disability,
19 veteran status, genetic information, or any other classification
20 protected by state or federal law, resulting from the deployer's use
21 of the automated decision tool.

22 (6) A description of the safeguards implemented, or that will
23 be implemented, by the deployer to address any reasonably
24 foreseeable risks of algorithmic discrimination arising from the
25 use of the automated decision tool. The description must address
26 all of the following:

27 (A) Whether the automated decision tool could be modified to
28 mitigate the risk of algorithmic discrimination.

29 (B) Whether effective accommodations can be provided for any
30 limitations on accessibility.

31 (C) Whether less discriminatory procedures or methods could
32 be employed to mitigate the risk of algorithmic discrimination.

33 (7) A description of how the automated decision tool will be
34 used by a natural person, or be monitored when it is used
35 autonomously, to make, or be a substantial factor in making, a
36 consequential decision.

37 (8) A description of how the automated decision tool has been
38 or will be evaluated for validity, reliability, and relevance.

39 (c) (1) Subject to paragraph (2), a developer, before making an
40 automated decision tool that it designs, codes, or produces available

1 to potential deployers, shall perform an impact assessment on the
2 automated decision tool and annually thereafter.

3 (2) With respect to an automated decision tool that a developer
4 first made available to potential deployers before January 1, 2025,
5 the developer shall perform an impact assessment on the automated
6 decision tool before January 1, 2026, and annually thereafter.

7 (d) A developer shall ensure that an impact assessment prepared
8 pursuant to subdivision (c) includes all of the following:

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

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

14 (3) A summary of the categories of information collected from
15 natural persons and processed by the automated decision tool when
16 it is used to make, or be a substantial factor in making, a
17 consequential decision, including, but not limited to, all of the
18 following:

19 (A) Each category of personal information identified by
20 reference to the applicable subparagraph enumerated under
21 paragraph (1) of subdivision (v) of Section 1798.140 of the Civil
22 Code.

23 (B) Each category of sensitive personal information identified
24 by reference to the applicable paragraph and subparagraph
25 enumerated under subdivision (ae) of Section 1798.140 of the Civil
26 Code.

27 (C) Each category of information related to a natural person's
28 receipt of sensitive services, as defined in Section 56.05 of the
29 Civil Code, identified by reference to the specific category of
30 sensitive service enumerated in the definition.

31 (4) An analysis of the risk of algorithmic discrimination,
32 including adverse impacts on the basis of sex, race, color, ethnicity,
33 religion, age, national origin, limited English proficiency, disability,
34 veteran status, genetic information, or any other classification
35 protected by state or federal law, resulting from the deployer's use
36 of the automated decision tool.

37 (5) A description of the measures taken by the developer to
38 mitigate the risk of algorithmic discrimination arising from the
39 use of the automated decision tool.

1 (6) A description of how the automated decision tool can be
2 used by a natural person, or be monitored when it is used
3 autonomously, to make, or be a substantial factor in making, a
4 consequential decision.

5 (7) A description of how the automated decision tool has been
6 evaluated for validity, reliability, and relevance.

7 (e) A deployer or developer shall perform, as soon as feasible,
8 an impact assessment with respect to any substantial modification
9 to an automated decision tool.

10 (f) This section does not apply to a deployer with fewer than
11 55 employees unless the deployer used an automated decision tool
12 that impacted more than 999 people during the previous calendar
13 year.

14 22756.2. (a) (1) Prior to an automated decision tool making
15 a consequential decision, or being a substantial factor in making
16 a consequential decision, a deployer shall notify any natural person
17 that is subject to the consequential decision that an automated
18 decision tool is being used.

19 (2) A deployer shall provide to a natural person notified pursuant
20 to this subdivision all of the following:

21 (A) A statement of the purpose of the automated decision tool.

22 (B) Contact information for the deployer.

23 (C) A plain language description of the automated decision tool
24 that includes all of the following:

25 (i) The personal characteristics or attributes that the automated
26 decision tool will measure or assess.

27 (ii) The method by which the automated decision tool measures
28 or assesses those attributes or characteristics.

29 (iii) How those attributes or characteristics contribute to the
30 consequential decision.

31 (iv) The format and structure of the automated decision tool's
32 outputs.

33 (v) How those outputs are used to make, be a substantial factor
34 in making, a consequential decision.

35 (vi) A summary of the most recent impact assessment performed
36 on the automated decision tool.

37 (D) Information sufficient to enable the natural person to request
38 to be subject to an alternative selection process or accommodation,
39 as applicable, in lieu of the automated decision tool, as provided
40 in subdivision (b).

1 (b) (1) If a consequential decision is made solely based on the
2 output of an automated decision tool, a deployer shall, if technically
3 feasible, accommodate a natural person's request to not be subject
4 to the automated decision tool and to instead be subject to an
5 alternative selection process or accommodation.

6 (2) After a request pursuant to paragraph (1), a deployer may
7 reasonably request, collect, and process information from a natural
8 person for the purposes of identifying the person and the associated
9 consequential decision. If the person does not provide that
10 information, the deployer shall not be obligated to provide an
11 alternative selection process or accommodation.

12 (c) A deployer that has deployed an automated decision tool,
13 to make, or be a substantial factor in making, a consequential
14 decision concerning a natural person, shall provide to the natural
15 person all of the following:

16 (1) A simple and actionable explanation that identifies the
17 principal factors, characteristics, logic, and other information
18 related to the individual that led to the consequential decision.

19 (2) The role that the automated decision tool played in the
20 decisionmaking process.

21 (3) The opportunity to correct any incorrect personal data that
22 the automated decision tool processed in making, or as a substantial
23 factor in making, the consequential decision.

24 (d) All notices and other communications described in this
25 section shall be all of the following:

26 (1) Transmitted directly to the subject of the consequential
27 decision when possible, or else made available in a manner
28 reasonably calculated to ensure that the subjects of consequential
29 decisions receive actual notice.

30 (2) Provided in English, in any non-English language spoken
31 by at least 1 percent of the population of this state as of the most
32 recent United States Census, and in any other language that the
33 deployer regularly uses to communicate with the subjects of
34 consequential decisions.

35 (3) Written in clear and plain language.

36 (4) Made available in formats that are accessible to people who
37 are blind or have other disabilities.

38 (5) Otherwise presented in a manner that ensures the
39 communication clearly and effectively conveys the required
40 information to subjects of the relevant consequential decisions.

1 22756.3. (a) A developer shall provide a deployer with the
2 results of any impact assessment performed on an automated
3 decision tool that the developer sells, licenses, or otherwise
4 transfers to the deployer, along with documentation describing all
5 of the following:

6 (1) The intended uses of the automated decision tool.

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

10 (3) The type of data used to program or train the automated
11 decision tool.

12 (4) How the automated decision tool was evaluated for validity
13 and explainability before sale or licensing.

14 (5) The deployer's responsibilities under this chapter.

15 (6) Any technical information necessary for a deployer to fulfill
16 their obligations under Section 22756.2.

17 (b) This section does not require the disclosure of trade secrets,
18 as defined in Section 3426.1 of the Civil Code. To the extent that
19 a developer withholds information pursuant to this section, the
20 developer shall notify the deployer and provide a basis for the
21 withholding.

22 22756.4. (a) (1) A deployer or developer shall establish,
23 document, implement, and maintain a governance program that
24 contains reasonable administrative and technical safeguards
25 designed to map, measure, and manage the reasonably foreseeable
26 risks of algorithmic discrimination associated with the use or
27 intended use of an automated decision tool.

28 (2) The safeguards required by this subdivision shall be
29 appropriate to all of the following:

30 (A) The use or intended use of the automated decision tool.

31 (B) The deployer's or developer's role as a deployer or
32 developer.

33 (C) The size, complexity, and resources of the deployer or
34 developer.

35 (D) The nature, context, and scope of the activities of the
36 deployer or developer in connection with the automated decision
37 tool.

38 (E) The technical feasibility and cost of available tools,
39 assessments, and other means used by a deployer or developer to

1 map, measure, manage, and govern the risks associated with an
2 automated decision tool.

3 (b) The governance program required by this section shall be
4 designed to do all of the following:

5 (1) (A) Designate at least one employee to be responsible for
6 overseeing and maintaining the governance program and
7 compliance with this chapter.

8 (B) (i) An employee designated pursuant to this paragraph shall
9 have the authority to assert to the employee's employer a good
10 faith belief that the design, production, or use of an automated
11 decision tool fails to comply with the requirements of this chapter.

12 (ii) An employer of an employee designated pursuant to this
13 paragraph shall conduct a prompt and complete assessment of any
14 compliance issue raised by that employee.

15 (2) Identify and implement safeguards to address reasonably
16 foreseeable risks of algorithmic discrimination resulting from the
17 use or intended use of an automated decision tool.

18 (3) If established by a deployer, provide for the performance of
19 impact assessments as required by Section 22756.1.

20 (4) If established by a developer, provide for compliance with
21 Sections 22756.2 and 22756.3.

22 (5) Conduct an annual and comprehensive review of policies,
23 practices, and procedures to ensure compliance with this chapter.

24 (6) Maintain for five years after completion the results of an
25 impact assessment.

26 (7) Evaluate and make reasonable adjustments to administrative
27 and technical safeguards in light of material changes in technology,
28 the risks associated with the automated decision tool, the state of
29 technical standards, and changes in business arrangements or
30 operations of the deployer or developer.

31 (c) This section does not apply to a deployer with fewer than
32 55 employees unless the deployer used an automated decision tool
33 that impacted more than 999 people during the previous calendar
34 year.

35 22756.5. A deployer and developer shall make publicly
36 available, in a readily accessible manner, a clear policy that
37 provides a summary of both of the following:

38 (a) The types of automated decision tools currently in use or
39 made available to others by the deployer or developer.

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

22756.6. (a) If an impact assessment performed by a deployer pursuant to Section 22756.1 identifies a reasonable risk of algorithmic discrimination, the deployer shall not use the automated decision tool until the risk has been mitigated.

(b) If an impact assessment performed by a developer pursuant to Section 22756.1 identifies a reasonable risk of algorithmic discrimination under deployment conditions reasonably likely to occur in this state, the developer shall not make the automated decision tool available to potential deployers until the risk has been mitigated.

~~22756.7. (a) A state government deployer shall, by January 1, 2026, provide the California Privacy Protection Agency a list of automated decision tools initially deployed prior to January 1, 2025, by the state government deployer. The list shall identify all of the following:~~

~~(1) Each automated decision tool deployed by the state government deployer.~~

~~(2) The role of each automated decision tool in making consequential decisions.~~

~~(3) The population affected by each automated decision tool.~~

~~(b) The California Privacy Protection Agency shall, by January 1, 2027, establish a staggered schedule that identifies when each state government deployer shall comply with Sections 22756.1, 22756.2, 22756.3, 22756.4, 22756.5, and 22756.6 for each automated decision tool deployed by the state government deployer.~~

~~(1) The schedule established by the agency shall prioritize compliance for automated decision tools used by state government deployers with the highest risk for algorithmic discrimination, including civil rights violations and other discriminatory outcomes.~~

~~(2) The schedule established by the agency shall require full compliance by each state government deployer by January 1, 2031.~~

~~(3) A state government deployer that fails to comply with the requirements of this chapter as specified in the schedule established by the agency may be subject to enforcement by the agency, as authorized in Sections 22756.8 and 22756.9.~~

1 ~~22756.8.— (a) The Civil Rights Department may investigate a~~
2 ~~report of algorithmic discrimination or any other violation of this~~
3 ~~chapter.~~

4 ~~(b) (1) Upon receiving a request from the California Privacy~~
5 ~~Protection Agency, a deployer or a developer shall, within 30 days~~
6 ~~of the request, provide any impact assessment that it performed~~
7 ~~pursuant to this chapter to the California Privacy Protection~~
8 ~~Agency.~~

9 ~~(2) The disclosure of an impact assessment pursuant to this~~
10 ~~subdivision does not constitute a waiver of any attorney-client~~
11 ~~privilege or work-product protection that might otherwise exist~~
12 ~~with respect to the impact assessment and any information~~
13 ~~contained in the impact assessment.~~

14 ~~(3) (A) An impact assessment disclosed to the California~~
15 ~~Privacy Protection Agency pursuant to this chapter, or that is~~
16 ~~subsequently shared by the California Privacy Protection Agency~~
17 ~~with another agency or department, shall be exempt from the~~
18 ~~California Public Records Act (Division 10 (commencing with~~
19 ~~Section 7920.000) of Title 1 of the Government Code).~~

20 ~~(B) No provision of this chapter shall be construed to require~~
21 ~~the disclosure of trade secrets, as defined in Section 3426.1 of the~~
22 ~~Civil Code. To the extent that a developer or deployer withholds~~
23 ~~information pursuant to this chapter, the developer or deployer~~
24 ~~shall notify the relevant entity or natural person and provide a basis~~
25 ~~for the withholding.~~

26 ~~(4) A deployer or developer who violates this subdivision shall~~
27 ~~be liable for an administrative fine of not more than ten thousand~~
28 ~~dollars (\$10,000) per violation in an administrative enforcement~~
29 ~~action brought by the California Privacy Protection Agency.~~

30 ~~(5) Each day on which an automated decision tool is used for~~
31 ~~which an impact assessment has not been submitted pursuant to~~
32 ~~this subdivision shall give rise to a distinct violation of this~~
33 ~~subdivision.~~

34 ~~(c) The California Privacy Protection Agency may provide an~~
35 ~~impact assessment it receives to any of the following public entities~~
36 ~~to assist that entity in initiating or litigating a civil action:~~

37 ~~(1) The Attorney General in the name of the people of the State~~
38 ~~of California.~~

39 ~~(2) A district attorney, county counsel, or city attorney.~~

1 ~~(3) A city prosecutor in any city having a full-time city~~
2 ~~prosecutor, with the consent of the district attorney.~~

3 ~~(4) The Civil Rights Department.~~

4 22756.9. (a) ~~(1) Any of the following public entities~~ *The Civil*
5 *Rights Department* may bring a civil action against a deployer or
6 developer for a violation of this chapter:

7 ~~(A) The Attorney General in the name of the people of the State~~
8 ~~of California.~~

9 ~~(B) A district attorney, county counsel, or city attorney for the~~
10 ~~jurisdiction in which the violation occurred.~~

11 ~~(C) A city prosecutor in any city having a full-time city~~
12 ~~prosecutor, with the consent of the district attorney.~~

13 ~~(D) The Civil Rights Department.~~

14 ~~(2)~~

15 (b) A court may award in an action brought pursuant to this
16 subdivision section all of the following:

17 ~~(A)~~

18 (1) Injunctive relief.

19 ~~(B)~~

20 (2) Declaratory relief.

21 ~~(C)~~

22 (3) Reasonable attorney's fees and litigation costs.

23 ~~(D)~~

24 (4) Only in an action for a violation involving algorithmic
25 discrimination, a civil penalty of twenty-five thousand dollars
26 (\$25,000) per violation.

27 ~~(b)~~

28 (c) (1) ~~A public attorney, or the~~ *The Civil Rights Department*,
29 before commencing an action pursuant to this section for injunctive
30 relief, shall provide 45 days' written notice to a deployer or
31 developer of the alleged violations of this chapter.

32 (2) (A) The developer or deployer may cure, within 45 days of
33 receiving the written notice described in paragraph (1), the noticed
34 violation and provide the person who gave the notice an express
35 written statement, made under penalty of perjury, that the violation
36 has been cured.

37 (B) If the developer or deployer cures the noticed violation and
38 provides the express written statement pursuant to subparagraph
39 (A), a claim for injunctive relief shall not be maintained for the
40 noticed violation.

1 22756.10. It shall be unlawful for a ~~deployer, state government~~
2 ~~deployer,~~ *deployer* or developer to retaliate against a natural person
3 for that person's exercise of rights provided for under this chapter.

4 22756.11. This chapter does not apply to cybersecurity-related
5 technology, including technology designed to detect, protect
6 against, or respond to security incidents, identity theft, fraud,
7 harassment, malicious or deceptive activities or any illegal activity,
8 preserve the integrity or security of systems, or investigate, report,
9 or prosecute those responsible for those actions.

10 22756.12. The rights, remedies, and penalties established by
11 this chapter are cumulative and shall not be construed to supersede
12 the rights, remedies, or penalties established under other laws,
13 including, but not limited to, Chapter 6 (commencing with Section
14 12940) of Part 2.8 of Division 3 of Title 2 of the Government Code
15 and Section 51 of the Civil Code.

16 ~~SEC. 2. The Legislature finds and declares that Section 1 of~~
17 ~~this act, which adds Chapter 25 (commencing with Section 22756)~~
18 ~~to Division 8 of the Business and Professions Code, imposes a~~
19 ~~limitation on the public's right of access to the meetings of public~~
20 ~~bodies or the writings of public officials and agencies within the~~
21 ~~meaning of Section 3 of Article I of the California Constitution.~~
22 ~~Pursuant to that constitutional provision, the Legislature makes~~
23 ~~the following findings to demonstrate the interest protected by this~~
24 ~~limitation and the need for protecting that interest:~~

25 ~~In order to protect proprietary information, it is necessary that~~
26 ~~trade secrets disclosed in impact assessments to agencies and~~
27 ~~departments pursuant to Section 1 of this act remain confidential.~~

28 ~~SEC. 3. The Legislature finds and declares that this act furthers~~
29 ~~the purposes and intent of the California Privacy Rights Act of~~
30 ~~2020.~~

31 ~~SEC. 4.~~

32 *SEC. 2.* No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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