

118TH CONGRESS
1ST SESSION

S. 3478

To require agencies that use, fund, or oversee algorithms to have an office of civil rights focused on bias, discrimination, and other harms of algorithms, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2023

Mr. MARKEY (for himself, Mr. BOOKER, Ms. KLOBUCHAR, Mr. LUJÁN, Mr. MERKLEY, Ms. WARREN, Mr. WELCH, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To require agencies that use, fund, or oversee algorithms to have an office of civil rights focused on bias, discrimination, and other harms of algorithms, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Eliminating Bias in
5 Algorithmic Systems Act of 2023”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) AGENCY.—The term “agency” has the
2 meaning given the term in section 3502 of title 44,
3 United States Code.

4 (2) COVERED AGENCY.—The term “covered
5 agency” means an agency that—

6 (A) uses, funds, or procures a covered al-
7 gorithm, or funds or otherwise participates in
8 the development of a covered algorithm; or

9 (B) oversees, regulates, or advises on the
10 development or use of a covered algorithm.

11 (3) COVERED ALGORITHM.—The term “covered
12 algorithm” means a process that—

13 (A) is—

14 (i) a computational process that uses
15 machine learning, natural language proc-
16 essing, artificial intelligence techniques, or
17 other computational processing techniques
18 of similar or greater complexity; or

19 (ii) a computational process derived
20 from a process described in clause (i); and

21 (B) has the potential to have a material ef-
22 fect on the impact of, access to, availability of,
23 eligibility for, cost of, terms of, or conditions
24 of—

- 1 (i) a program operated or funded by
2 an agency;
- 3 (ii) an economic opportunity regulated
4 by an agency; or
- 5 (iii) rights protected by an agency.

6 **SEC. 3. CIVIL RIGHTS OFFICES AND REPORTING ON AI**
7 **BIAS, DISCRIMINATION, AND OTHER HARMS.**

8 (a) OFFICES OF CIVIL RIGHTS.—The head of each
9 covered agency shall ensure that the covered agency has
10 an office of civil rights that employs experts and tech-
11 nologists focused on bias, discrimination, and other harms
12 resulting from covered algorithms.

13 (b) BIAS, DISCRIMINATION, AND OTHER HARMS RE-
14 PORTS.—Not later than 1 year after the date of enactment
15 of this Act, and every 2 years thereafter, each office of
16 civil rights of a covered agency established under sub-
17 section (a) shall submit to each congressional committee
18 with jurisdiction over the covered agency a report that de-
19 tails—

20 (1) the state of the field and technology of cov-
21 ered algorithms with respect to jurisdiction of the
22 covered agency, including risks relating to bias, dis-
23 crimination, and other harms;

1 (2) any relevant steps the covered agency has
2 taken to mitigate harms from covered algorithms
3 due to bias, discrimination, and other harms;

4 (3) actions the covered agency has taken to en-
5 gage with relevant stakeholders, including industry
6 representatives, businesses, civil rights advocates,
7 consumer protection organizations, other relevant
8 civil society organizations, academic experts, individ-
9 uals with technical expertise, organizations rep-
10 resenting workers, and affected populations, regard-
11 ing bias, discrimination, and other harms from cov-
12 ered algorithms; and

13 (4) any relevant recommendations for legisla-
14 tion or administrative action to mitigate bias, dis-
15 crimination, and other harms from covered algo-
16 rithms, as determined appropriate by the head of the
17 office.

18 (c) INTERAGENCY WORKING GROUP.—Not later than
19 1 year after the date of enactment of this Act, the Assist-
20 ant Attorney General in charge of the Civil Rights Divi-
21 sion of the Department of Justice shall establish an inter-
22 agency working group on covered algorithms and civil
23 rights, of which each office of civil rights of a covered
24 agency established under subsection (a) shall be a mem-
25 ber.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to each covered agency
3 such sums as may be necessary to carry out this Act.

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