3.13.24 MSEA Senate Bill 957 Testimony_FAV.pdf

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Position: FAV

MARYLAND STATE EDUCATION ASSOCIATION

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FAVORABLE
Senate Bill 957
Labor and Employment – Automated Employment Decision Tools - Prohibition

Senate Finance Committee
March 14, 2024

Christian Gobel
Government Relations

The Maryland State Education Association supports Senate Bill 957. Senate Bill 957 establishes important safeguards on the use of automated employment decision tools (AEDTs) by employers. The legislation, in part, prohibits an employer from using an AEDT to screen job applicants for employment or help the employer decide compensation or other terms, conditions, or privileges of employment, unless the employer has subjected the AEDT to an impact assessment within a specified timeframe. Additionally, the employer must notify relevant job applicants that an AEDT was used in connection with their application.

MSEA represents 75,000 educators and school employees who work in Maryland's public schools, teaching and preparing our almost 900,000 students so they can pursue their dreams. MSEA also represents 39 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3 million-member National Education Association (NEA).

The increasing utilization of artificial intelligence systems in the employer-employee relationship calls for the federal and state governments to enact protections for job applicants and workers from potential discrimination. In May 2023, the Equal Employment Opportunity Commission released technical assistance related to the use of artificial intelligence in employment and implications for Title VII of the Civil Rights Act.[1] In August 2023, the EEOC reached a settlement with a tutoring company

[1] U.S. Equal Employment Opportunity Commission, *Select Issues: Assessing Adverse Impact in Software, Algorithms, and Artificial Intelligence Used in Employment Selection Procedures*

regarding allegations of AI discrimination in hiring in violation of the Age Discrimination in Employment Act, the first of its kind.[2] Relatedly, certain states have proposed legislation to establish protections for job applicants and workers to address potential discrimination from AEDTs.[3]

Workers and job applicants are not in a position to know if and when an employer is using an AEDT that could impact their economic livelihood. Legislation and regulations are needed to ensure job applicants and workers are not unknowingly subjected to adverse employment actions from these tools.

MSEA encourages the General Assembly to act now to establish standards and safeguards on the use of AEDTs to prevent discrimination in the workplace.

We urge the committee to issue a Favorable Report on Senate Bill 957.

Under Title VII of the Civil Rights Act of 1964 (May 18, 2023), https://www.eeoc.gov/laws/guidance/select-issues-assessing-adverse-impact-software-algorithms-and-artificial.

[2] Annelise Gilbert, *EEOC Settles First-of-Its-Kind AI Bias in Hiring Lawsuit,* Bloomberg Law (August 10, 2023), https://news.bloomberglaw.com/daily-labor-report/eeoc-settles-first-of-its-kind-ai-bias-lawsuit-for-365-000.

[3] Chris Marr and Zach Williams, *New York State Bills Push AI Worker Bias Guardrails Past NYC Law*, Bloomberg Law (March 13, 2024), https://news.bloomberglaw.com/us-law-week/new-york-state-bills-push-ai-worker-bias-guardrails-past-nyc-law.

SB 957 - Labor and Employment - Automated Employme

Uploaded by: Donna Edwards

Position: FAV

MARYLAND STATE & D.C. AFL-CIO

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President
Donna S. Edwards

Secretary-Treasurer
Gerald W. Jackson

SB 957 - Labor and Employment - Automated Employment Decision Tools - Prohibition
Senate Finance Committee
March 14, 2024

SUPPORT

Donna S. Edwards
President
Maryland State and DC AFL-CIO

Madame Chair and members of the Committee, thank you for the opportunity to submit testimony in support of SB 957. My name is Donna S. Edwards, and I am the President of the Maryland State and District of Columbia AFL-CIO. On behalf of Maryland's 300,000 union members, I offer the following comments.

SB 957 prevents biases and discrimination in hiring by prohibiting algorithmic decision systems and automated employment decision tools from being used if they have not been screened by impact assessments that determined that the tools would not involve high risk actions. The bill defines high risk actions as employment decisions that likely could result in unlawful discrimination or have disparate actions on individuals or groups. All uses of the tools require employers to notify job applicants that the tool was used within 30 days. Violators of the law face $500 penalties for the first violation.

Artificial intelligence has no place in major hiring and employment decisions. This technology is way too early in its development for deciding whether a family can put food on their table. Reasonable guardrails must be put in place to ensure that job applicants are informed so that they may take action if these programs are found to be discriminatory.

SB 957 represents the bare minimum of what Maryland needs to do to combat the potential downsides of artificial intelligence in employment issues. We urge a favorable report on SB 957.

AI Employment Decision Tools - Testimony.docx.pdf
Uploaded by: Katie Fry Hester
Position: FAV

KATIE FRY HESTER
Legislative District 9
Howard and Montgomery Counties

Education, Energy, and
Environment Committee

Chair, Joint Committee on
Cybersecurity, Information Technology
and Biotechnology

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

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Testimony in Support of SB957 - Labor and Employment—Automated Employment Decision Tools—Prohibition

March 14, 2024

Chairman Beidle, Vice-Chair Klausmeier, and members of the Finance Committee:

Thank you for your consideration of Senate Bill 957, which seeks to address the potential risks associated with the use of automated employment decision tools in the hiring process.

The use of automated employment decision tools raises concerns about potential bias and discrimination. If not carefully designed, these tools have the potential to perpetuate existing biases in hiring data, leading to unfair outcomes for underrepresented groups. This bill seeks to reduce the potential for misuse or lack of transparency in the use of automated employment decision tools. The bill's prohibitions and notification requirements aim to establish safeguards and accountability in the use of automation in employment decisions, ensuring that applicants are informed and protected from the potential negative consequences of automated decision-making processes.

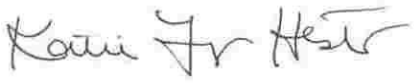
This bill will specifically:

- Prohibit employers from using automated decision tools to screen applicants for employment or to decide compensation or other terms, conditions, or privileges of employment in the state if that system has not undergone an annual impact assessment.
- Require employers to notify each applicant within 30 days after the use of an automated decision tool, providing information about its use and the assessed job qualifications or characteristics of the applicant.
- Establish civil penalties for employers violating the notification requirement, ensuring compliance with the provisions of the Act.

SB957 is a commitment to fostering a workplace that embraces technological advancement and ethical responsibility, with trust as a foundational value. This bill prioritizes the rights of job applicants, upholds diversity, and promotes fairness and equity in all employment decisions.

For these reasons, I respectfully request a favorable report on SB957.

Sincerely,



Senator Katie Fry Hester
Howard and Montgomery Counties

SB 957 - support.pdf
Uploaded by: Kofi Nyarko
Position: FAV

MORGAN
CENTER FOR EQUITABLE AI & MACHINE LEARNING SYSTEMS

March 13, 2024

Dear Senator Hester,

I am writing to express my strong support for Senate Bill 957, which addresses the regulation of automated employment decision tools in Maryland. As the director of the Center for Equitable Artificial Intelligence and Machine Learning Systems (CEAMLS) at Morgan State University, I commend the initiative taken by this bill to ensure fairness and transparency in employment practices involving AI and machine learning systems.

Senate Bill 957 prohibits employers from using automated employment decision tools without meeting specific conditions, such as conducting impact assessments to prevent high-risk actions. This legislation aligns with CEAMLS's mission to promote equitable practices in the use of AI technologies, particularly in employment settings.

The provisions outlined in Senate Bill 957, including defining key terms like "algorithmic decision system" and "automated employment decision tool," setting requirements for impact assessments, and imposing penalties for violations, are crucial steps towards safeguarding applicants' rights and ensuring non-discriminatory employment practices.

I believe that Senate Bill 957 represents a significant advancement in regulating the use of AI technologies in employment decisions and will contribute to creating a more equitable and just work environment for all individuals in Maryland.

Thank you for your attention to this important matter. I urge you to support Senate Bill 957 for the betterment of our state's labor and employment landscape.

Sincerely,

Kofi Nyarko, D.Eng.
Professor, Electrical and Computer Engineering
Director, Center for Equitable AI and Machine Learning Systems

5200 Perring Parkway • Schaefer Engineering Building • Room 238 • Baltimore, Maryland 21251
Tel: 443-885-3476 • Fax: 724-298-1202 • kofi.nyarko@morgan.edu

SB957_CDT_MattScherer_FWA
Uploaded by: Matt Scherer
Position: FWA

Testimony of the Center for Democracy & Technology on Senate Bill 957
By Matthew Scherer, Senior Policy Counsel for Workers' Rights and Technology

Before the Finance Committee of the Maryland Senate

March 14, 2024

The Center for Democracy & Technology (CDT) thanks the Finance Committee for considering our testimony on this legislation. CDT is a nonprofit, nonpartisan organization fighting to advance civil rights and civil liberties in the digital age. My name is Matthew Scherer, and I lead CDT's Workers' Rights project, where I advocate for policymakers and employers to adopt policies that protect workers from the potentially harmful effects of emerging technologies in the workplace.

Companies increasingly use artificial intelligence (AI) tools and other automated employment decision systems (AEDSs) to make decisions that dramatically impact workers' lives and livelihoods. CDT has been closely watching as policymakers across the country grapple with how to manage the potential benefits and risks that AI and AEDSs pose.

We greatly appreciate the effort that Senator Hester and Delegate Bartlett put into this thoughtfully and precisely crafted legislation, which addresses the very real risk of discrimination and bias that AEDSs pose to workers in Maryland and across the country. I very much appreciate the bill's requirement that companies evaluate AEDSs to determine whether their use would likely result in unlawful discrimination, the prohibition against the use of AEDSs likely to result in such discrimination, and its provisions requiring companies to notify workers when they subject them to an AEDS.

The below recommendations will ensure that the bill's effects match its spirit. With a few amendments tightening its scope, notice, and enforcement requirements, we believe this bill could provide a strong foundation for ensuring algorithmic fairness in employment decisions.

Avoiding the failures of New York City's Local Law 144

My testimony is strongly guided by the experience with New York City's Local Law 144 (LL144), an ordinance regarding AI-driven hiring and promotion decisions that went into effect last summer. That experience is highly relevant to SB 957 and HB 1255, both of which share key features with New Jersey Assembly Bill 4909, which was, in turn, based on LL144. Fortunately, the New Jersey bill (and, by extension, SB 957 and HB 1255) addressed some of the flaws that undermined the New York City law. Most notably, the ordinance's "bias audit" requirement merely required employers to check for whether an AEDS would have a disparate impact on race, gender, or national origin. Companies need not check AEDSs for disparate treatment discrimination nor for any form of discrimination based on disability, age, or other protected

statuses. By contrast, SB 957 and HB 1255 appropriately require employers to conduct an impact assessment to determine whether using the system would likely result in *any* form of unlawful discrimination. We also greatly appreciate that the bill would prohibit companies from using AEDSs that are likely to result in unlawful discrimination, thus ensuring that employers fix any issues identified during impact assessments.

But without some small but crucial amendments, SB 957 and HB 1255 risk falling into a trap that has led to the apparent failure of New York City's ordinance, under which companies have managed to almost completely avoid compliance by exploiting the bill's narrow scope, inadequate disclosure requirements, and enforcement provisions that do not provide adequate deterrence.

The immediate decline and fall of New York City's LL144

The text of LL144, on its surface, appeared to provide a reasonable scope and require some meaningful, albeit modest, disclosures. LL144's definition of "automated employment decision tool" covers automated systems that "substantially assist or replace discretionary decision making." The "substantially assist" language would seem to extend to AEDSs that make recommendations that influence employment decisions and certainly to those that are a substantial factor in such decisions. On the transparency front, the text of LL144 requires companies to notify candidates that they will use an AEDS to assess them along with "job qualifications and characteristics" that the AEDS will use in its assessment. While this language is vague, it would at least alert candidates to the AEDS's existence before assessment.

Unfortunately, the New York City Department of Consumer and Worker Protection (DCWP) issued interpretive rules effectively gutting LL144's scope and notice provisions. Despite the plain meaning of "substantially *assist*," the DCWP rules state that LL144 applies only to AEDSs that dominate the decision-making process by being the sole basis for an employment decision, being the single most important factor in that decision, or overruling conclusions made by human decision-makers.[1] CDT warned in comments to the DCWP that this interpretation would allow employers to "evade the requirements of LL144 simply by casting [AEDS] outputs as 'recommendations' that human decision-makers either rubber-stamp or hesitate to contradict."[2]

Similarly, the DCWP rules undercut LL144's notice requirements by allowing employers to provide "notice" simply by posting the information on their website rather than including it in job listings or providing it directly to candidates. CDT likewise critiqued DCWP's notice rules as severely undermining the effectiveness of the notice provisions by placing the "onus . . . on workers to try to find these details on employers' websites or submit a written request for these details."[3]

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[1] Rules of New York City, tit. 5, § 5-300 (definition of "Automated Employment Decision Tool").
[2] CDT, Comments to the New York City Department of Consumer and Worker Protection re: Revised Proposed Rules to Implement Local Law 144 of 2021 on Automated Employment Decision Tools, at 2 (Jan. 23, 2023), https://cdt.org/wp-content/uploads/2023/01/2023-01-26-CDT-Comments-on-NYCs-Revised-AEDT-Rules.pdf.
[3] *Id.* at 6.

Sadly, these fears regarding the impact of DCWP's rules appear to have come to fruition. In a recent study by researchers from Cornell University, Data & Society, and Consumer Reports (the LL144 Study), investigators searched for LL144 notices and disparate impact results on the websites of 267 employers who had posted positions in New York City in late 2023.[4] Even though several recent surveys indicate that AEDSs are "widespread" and that their use is "rapidly growing,"[5] the study found that only 5% of companies posted disparate impact analysis results, and only 4% included LL144 notices.[6] For companies that did publish the required information, the investigators often struggled to find the relevant notice information on their websites.[7]

The report's authors suggested that the scarcity of compliant publications of LL144 notices and audit results may be the result of a combination of weaknesses in the bill, including that it:

- Grants employers "near-total discretion over whether their system is in scope, and offers them many chances to move out of scope."
- Neither provides a private right of action nor gives the DCWP proactive investigative or discovery authority.
- Provides for very modest penalties, with companies facing a theoretical maximum annual penalty of $547,500 for violations of the law—far less than what it would face in damages from a class-action employment discrimination suit.

Moreover, examining the few cases where companies did post disparate impact analyses, the researchers found that almost no published reports showed a disparate impact on any protected groups, even though audit industry workers told researchers in interviews that "many, if not the majority" of AEDSs on the market have such disparate impacts.[8] This led the researchers to conclude that reporting bias was at work—that is, companies whose adverse impact analyses indicated a potential disparate impact may have decided simply not to report adverse results.[9] The result is that the publicly available "audit" results paint an implausibly rosy picture of AEDSs' fairness. That is likely to accelerate, rather than reverse, the spread of discriminatory AEDSs.

These compliance issues are exacerbated by the fact that LL144 does not clearly cover *passive candidate* screening. Passive candidates are workers who an employer (or a job platform or other entity acting on the employer's behalf) identifies as a potential recruitment target. Passive

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[4] Lucas Wright, et al., *Null Compliance: NYC Local Law 144 and the Challenges of Algorithm Accountability*, https://osf.io/4y7d2.
[5] *Id.* at 4. The authors acknowledged, however, that there is no "reliable source" on AEDSs' prevalence, *id.*, a fact that is doubtless a function of the AEDS transparency problem that LL144 was supposedly meant to address.
[6] *Id.* at 10.
[7] *Id.* at 10-11. Because of the degree of discretion LL144 affords employers to decide whether the law applies to them, the study's authors used the term *null compliance* (as opposed to non-compliance) to describe the results of their research. With null compliance, "the absence of evidence of compliance cannot be ascertained as non-compliance because the investigator lacks the information to determine if the regulated party's actions or products are in scope of the regulation." *Id.* at 5.
[8] *Id.* at 12.
[9] *Id.* at 13.

candidates may receive targeted communications, job advertisements, or other materials or documents that alert them to the existence of a job or encourage them to apply for the job. By using AEDSs to screen passive candidates, employers frequently fill job openings without ever posting the opening publicly. In such instances, passive candidate screening has the same practical effect as screening out job applicants. NYC's LL144 failed to cover this growing class of AEDSs, creating a loophole that allows companies to evade its regulations simply by shifting their personnel selection processes to focus on proactively identifying and reaching out to preferred candidates.

Applying the lessons of LL144 to SB 957 and HB 1255

The experience with LL144 suggests that transparency requirements—or, indeed, any substantive component of AEDS regulation—must be accompanied by a broad, clear scope and strong enforcement provisions to be effective. Indeed, a regulatory regime missing one or more of those components is likely to be harmful.

Consequently, we urge you to amend SB 957 and HB 1255 to strengthen its notice and disclosure requirements and clarify its key definitions to ensure companies cannot avoid disclosure (and, by extension, compliance with the bill) as they have under LL144. Our suggested amendments to the bill would accomplish that objective.

The specific amendments we suggest are as follows:

- **Page 2, Line 1**: Add "OR ASSESSES" after "FILTERS"
- **Page 2, Line 2**: Replace "APPLICANTS OR POTENTIAL APPLICANTS" with "CANDIDATES"
- **Page 2, after Line 5**
    - Add the following as new Item (4): *(4) "CANDIDATE" MEANS AN EMPLOYEE, APPLICANT, OR POTENTIAL APPLICANT.*
    - Renumber Items (4)-(6) to (5)-(7) on lines 6, 8, and 13.
- Replace "APPLICANT(S)" with "CANDIDATE(S)" at the following locations:
    - **Page 2, Lines 5, 17, and 20**
    - **Page 3, Lines 7, 10, 15, and 25**
- Replace "$500" with "$1,000" at the following locations:
    - **Page 3, Lines 18 and 19**
- **Page 3, Line 21**: Add "A CANDIDATE WITH" after "PROVIDE"
- **Page 3, after Line 25**: Add the following as new sub (F): "A VIOLATION OF THIS ACT SHALL CONSTITUTE AN UNLAWFUL EMPLOYMENT PRACTICE FOR WHICH AN AGGRIEVED APPLICANT CAN BRING A CIVIL ACTION PURSUANT TO § 20-1013 OF TITLE 20, SUBTITLE 10 OF THE STATE GOVERNMENT ARTICLE."
- **Page 3, Line 26**: Replace "(F)" with "(G)"
- **Page 3, Lines 4-15**: Amend current text of subsection (D) so that it reads as follows (<u>underline</u> indicates added or revised language):

(D) IF AN EMPLOYER USES AN AUTOMATED EMPLOYMENT DECISION TOOL UNDER SUBSECTION (C) OF THIS SECTION, PRIOR TO THE USE OF THE AUTOMATED EMPLOYMENT DECISION TOOL, THE EMPLOYER SHALL DIRECTLY NOTIFY EACH CANDIDATE WITH RESPECT TO WHOM THE AUTOMATED EMPLOYMENT DECISION TOOL WILL BE USED. THE NOTICE SHALL INFORM THE CANDIDATE THAT AN AUTOMATED EMPLOYMENT DECISION TOOL WILL BE USED TO ASSESS THE CANDIDATE AND INCLUDE A PLAIN-LANGUAGE DESCRIPTION OF THE AUTOMATED EMPLOYMENT DECISION TOOL THAT:

(1) INCLUDES A STATEMENT THAT THE AUTOMATED EMPLOYMENT DECISION TOOL WAS SUBJECT TO AN IMPACT ASSESSMENT UNDER SUBSECTION (C) OF THIS SECTION;

(2) INCLUDES A DESCRIPTION OF THE JOB QUALIFICATIONS OR CHARACTERISTICS OF THE CANDIDATE THAT THE AUTOMATED EMPLOYMENT DECISION TOOL WILL ASSESS, THE METHOD BY WHICH THE AUTOMATED EMPLOYMENT DECISION TOOL MEASURES OR ASSESSES THOSE QUALIFICATIONS OR CHARACTERISTICS, HOW THOSE QUALIFICATIONS OR CHARACTERISTICS ARE RELEVANT TO THE DECISION FOR WHICH THE AUTOMATED DECISION TOOL WILL BE USED, THE AUTOMATED EMPLOYMENT DECISION TOOL'S OUTPUTS, AND HOW THOSE OUTPUTS ARE USED TO MAKE OR INFORM THAT DECISION; AND

(3) PROVIDES INFORMATION ON HOW CANDIDATES WITH DISABILITIES, OR OTHER CANDIDATES ENTITLED TO REASONABLE ACCOMMODATION UNDER APPLICABLE LAW, CAN REQUEST REASONABLE ACCOMMODATION OR AN ALTERNATIVE METHOD OF ASSESSMENT.

(4) IS:

(I) TRANSMITTED DIRECTLY TO THE CANDIDATE WHEN POSSIBLE, OR ELSE MADE AVAILABLE IN A MANNER REASONABLY CALCULATED TO ENSURE THAT THE CANDIDATE RECEIVES ACTUAL NOTICE;

(II) PROVIDED IN ENGLISH, IN ANY NON-ENGLISH LANGUAGE SPOKEN BY AT LEAST ONE PERCENT (1%) OF THE POPULATION OF THIS STATE AS OF THE MOST RECENT UNITED STATES CENSUS, AND IN ANY OTHER LANGUAGE THAT THE EMPLOYER REGULARLY USES TO COMMUNICATE WITH EMPLOYEES;

(III) WRITTEN IN CLEAR AND PLAIN LANGUAGE;

(IV) MADE AVAILABLE IN FORMATS THAT ARE ACCESSIBLE TO PEOPLE WHO ARE BLIND OR HAVE OTHER DISABILITIES; AND

(V) OTHERWISE PRESENTED IN A MANNER THAT ENSURES THE COMMUNICATION CLEARLY AND EFFECTIVELY CONVEYS THE REQUIRED INFORMATION TO THE CANDIDATE.

Another issue with LL144 is that the rules interpreting the law allow employers to conduct bias audits using historical data that *other* employers collected to assess candidates and for jobs on which the AEDS had never been used. The current text of SB957 uses passive language that does not specify the nature of the data that employers must use to complete impact assessments. This leaves open a distinct possibility that the MDOL or courts will interpret the bill as allowing employers to rely on impact assessments that are not based on the employer's own data and therefore do not capture the risks of that particular employer's use of the AEDS.

To address this, we recommend the following addition to the bill's text:

- **Page 2, Line 14**: Add the following text to the end of the sentence: "SPECIFIC TO THE EMPLOYER AND THE POSITION(S) FOR WHICH THE ALGORITHMIC DECISION SYSTEM WILL BE USED"

Require that impact assessments be conducted by an independent third party

One final recommendation concerns the issue of who should conduct the impact assessments the bill requires. Currently, the bill would allow an employer to conduct an in-house assessment with no independent verification of the methodology or results of that assessment. Allowing a company that uses an AI system to conduct its own AI audit creates a conflict of interest where the company has no incentive to actually unearth or solve any problems with their system. And because most information about the AI system will be private and confidential, it is incredibly difficult for outside parties to find such problems. For example, there have already been multiple instances where vendors published misleading impact assessments, in which the company either conducted the impact assessment themselves and seemed to cherry-pick the data points to present or retained a third party that was only granted partial access to relevant data. Such an impact assessment is not reliable. Third party auditors that have full access to AI systems and are free of conflicts of interest are more likely to analyze and publish truthful assessments. On this front, the rules issued by the New York City enforcement agency regarding LL144 provide a solid definition of "independence" in the context of audits, and our recommended language is based on that definition.

To address this, we recommend the following amendments:

- **Page 3, Line 4**: Add the following as a new item to Subsection (C):

(3) THE IMPACT ASSESSMENT REQUIRED UNDER ITEM (1) OF THIS SUBSECTION IS CONDUCTED BY AN INDEPENDENT PERSON OR ENTITY WHO EXERCISES OBJECTIVE AND IMPARTIAL JUDGMENT ON ALL ISSUES WITHIN THE SCOPE OF THE IMPACT

ASSESSMENT. THE EMPLOYER MUST PROVIDE THE INDEPENDENT PERSON OR ENTITY WHO CONDUCTS THE IMPACT ASSESSMENT WITH ALL INFORMATION AND DATA REGARDING THE DESIGN, FUNCTIONALITY, TESTING, AND PERFORMANCE OF THE AUTOMATED DECISION TOOL. A PERSON IS NOT INDEPENDENT FOR PURPOSES OF THIS ITEM IF THEY:

> (1) ARE OR WERE INVOLVED IN USING, DEVELOPING, OFFERING, LICENSING, OR DEPLOYING THE AUTOMATED DECISION TOOL;
>
> (2) AT ANY POINT DURING THE IMPACT ASSESSMENT, HAS AN EMPLOYMENT RELATIONSHIP WITH A DEVELOPER OR DEPLOYER THAT USES, OFFERS, OR LICENSES THE AUTOMATED DECISION TOOL; OR
>
> (3) AT ANY POINT DURING THE IMPACT ASSESSMENT, HAS A DIRECT FINANCIAL INTEREST OR A MATERIAL INDIRECT FINANCIAL INTEREST IN A DEVELOPER OR DEPLOYER THAT USES, OFFERS, OR LICENSES THE AUTOMATED DECISION TOOL.[10]

Conclusion

It is not merely possible but imperative to regulate AEDSs well. To that end, we urge Committee members to consider the recommendations in this document, as well as those submitted by other labor and consumer advocates, as it considers this bill. The changes we recommend would resolve ambiguities and strengthen the bill's transparency requirements, ensuring that candidates receive clear, effective, and affirmative notice of AEDS decisions and that companies are held accountable for discriminatory AEDSs. These changes will ensure that the bill lives up to its highly commendable spirit and great promise.

Please do not hesitate to contact Matthew Scherer, Senior Policy Counsel on CDT's Privacy & Data Project, at mscherer@cdt.org if you have any questions regarding this testimony or if we can provide additional resources or information that will assist in your consideration of this legislation. Thank you for your attention.

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[10] These independence requirements are adapted from the Lawyers' Committee for Civil Rights Under Law's *Online Civil Rights Act*, which has been endorsed by the NAACP, National Urban League, and several other leading civil rights organizations. Lawyers' Committee on Civil Rights Under Law, Online Civil Rights Act § 2(12) (2023), https://www.lawyerscommittee.org/wp-content/uploads/2023/12/LCCRUL-Model-AI-Bill.pdf. That, in turn, was based on the definition of "independent auditor" in the rules issued by the New York DCWP interpreting LL144. *See* Rules of NYC, tit. 6, § 5-300. Our recommended language differs only in that it recommends that auditors be at least 5 years removed from having a disqualifying relationship (as opposed to merely not having an active disqualifying relationship), thus ensuring that auditors are not hampered by recent relationships that may affect the impartiality of the impact assessment.

SB 0957 - Automated Employment Decision Tools – Pr

Uploaded by: Danna Blum

Position: UNF

February 15, 2024

Senate Finance Committee
Senator Pamela Beidle
3 East
Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 0957 - Automated Employment Decision Tools – Prohibition **- Oppose**

Dear Senator Beidle:

The proposed legislation on the regulation of Automated Employment Decision Tools, as outlined in Senate Bill 0957, introduces a framework aimed at mitigating the risks associated with algorithmic decision-making in employment contexts. While the intention behind this bill is commendable in its effort to curb discriminatory practices and ensure fairness, it could inadvertently place undue burden on the end users—namely, employers who utilize these tools for hiring and employment-related decisions. The complexity of AI systems and the "black box" nature of their decision-making processes raise significant challenges that merit closer examination.

When legislation like SB 0957 holds employers accountable for the outcomes of AI-driven decisions, it fails to address the root cause of potential biases—the design and training of the AI systems themselves. Employers, especially those with limited technical expertise, may not fully understand the intricacies of these tools or have the capacity to conduct thorough impact assessments as required by the bill. They rely on their third-party vendors for these technologies, and their ability to ensure compliance may be limited by the information and tools available to them.

Moreover, the requirement for annual impact assessments and the obligation to notify applicants about the use of such tools place a significant administrative and financial burden on employers. This could discourage the adoption of innovative technologies that, if properly designed and monitored, could enhance fairness and efficiency in hiring. It could also lead to a scenario where the fear of penalties stifles innovation or leads to overly cautious employment practices that do not necessarily result in fairer outcomes.

The challenge, then, is to balance the need for accountability and transparency in automated decision-making with the recognition that the technology itself is a tool that reflects the intentions and biases of its creators and users. Legislation should encourage collaboration between technologists, regulators, and end users to develop standards and practices that enhance the transparency and fairness of AI systems. This could involve promoting open standards for AI accountability, providing resources for small and medium-sized enterprises to comply with regulations, and encouraging research into more interpretable AI models.

In conclusion, while Senate Bill 0957 takes a step in the right direction by highlighting the potential risks of automated employment decision tools, it also risks penalizing end users for issues that may lie beyond their control. A more nuanced approach that addresses the complexity of AI systems and fosters a collaborative environment for improving these technologies may offer a better path forward.

The Carroll County Chamber of Commerce, a business advocacy organization of nearly 700 members, opposes this bill and therefore requests that you give it an unfavorable report.

Sincerely,

Mike McMullin
President
Carroll County Chamber of Commerce

CC: Senator Justin Ready
Delegate April Rose

SB0957_UNF_MTC_Labor & Emp. - Automated Emp. Decis

Uploaded by: Drew Vetter

Position: UNF

MARYLAND TECH COUNCIL

TO: The Honorable Pamela Beidle, Chair
Members, Senate Finance Committee
The Honorable Katie Fry Hester

FROM: Andrew G. Vetter
Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
Christine K. Krone
410-244-7000

DATE: March 14, 2024

RE: **OPPOSE** – Senate Bill 957 – *Labor and Employment – Automated Employment Decision Tools – Prohibition*

The Maryland Tech Council (MTC) writes in **opposition** to *Senate Bill 957: Labor and Employment – Automated Employment Decision Tools – Prohibition*. We are a community of nearly 800 Maryland member companies that span the full range of the technology sector. Our vision is to propel Maryland to become the number one innovation economy for life sciences and technology in the nation. We bring our members together and build Maryland's innovation economy through advocacy, networking, and education.

Senate Bill 957 prohibits the use of an automated employment decision tool unless the tool was subject to an impact assessment that would determine the use of the tool would not involve a high-risk action. The MTC supports the intent behind this legislation, which is the responsible use of technology to mitigate potential bias and discriminatory impact. Our members generally support the development and use of tools to assist employers, large and small, in the hiring process. In response to this legislation, our members have noted that the responsible use of technology can be used to mitigate, rather than further, the implicit bias in humans when it comes to functions, such as hiring decisions.

Given the MTC's belief in the use of technology to enhance processes, such as hiring, our members feel that substantial additional clarity and details are needed if this legislation were to move forward. For example, would an employer's use of hiring sites, such as Indeed.com or LinkedIn, be subject to the impact assessment? Additionally, it is unclear whether the sponsor's intent is intended to apply to the use of artificial intelligence or any type of software or technology that uses any algorithm of some type. We believe that additional details are needed to determine the types of tools that the legislation is intended to apply to. Additionally, there is not much detail around the required impact assessment. It is defined as only "a documented risk-based evaluation of a system that employes an algorithmic decision system." There is no clarity on what factors must be evaluated, the level of detail required, how it will be determined whether the evaluation triggers a high-risk action, and who will be making such determinations. It is difficult for the MTC to evaluate the impact that this legislation will have on our members without additional clarity.

The MTC would welcome a conversation with the bill sponsor about ways to bring additional clarity to employers, but at present, the MTC requests an unfavorable report.

SB0957 - MBA - UNF - GR24.pdf
Uploaded by: Evan Richards
Position: UNF

SB 957 - Labor and Employment - Automated Employment Decision Tools - Prohibition
Committee: Senate Finance Committee
Date: March 14, 2024
Position: Unfavorable

The Maryland Bankers Association (MBA) **OPPOSES** SB 957**.** This legislation prohibits employers from using automated employment decisions tools to hire applicants unless the tools undergo impact assessments to ensure that the tools would not result in discriminatory hiring practices.

Banks operating in Maryland, as of June 30, 2022, employ over 26,000 people and pay approximately $3.5 billion in annual compensation and benefits. Banks hire Marylanders not only to interact with customers, but also to ensure that bank operations flow seamlessly and that customer deposits are protected. To hire applicants who have sufficient education and skills to complete potential tasks, some banks use automated employment decision tools to identify key words on resumes and applications.

SB 957 creates a time consuming and burdensome process for employers who use these tools. Every year, an employer's tools would be subject to an impact assessment, even if those tools already satisfied the Department of Labor's regulations and those regulations have not changed since the last assessment was conducted. In addition, the notice provided to applicants that an automated employment decision tool was used could open employers to litigation from those who were not hired. These increased compliance costs for banks operating in Maryland will ultimately result in increased costs for Marylanders to access key banking products and services.

Accordingly, MBA urges issuance of an UN**FAVORABLE** report on SB 957.

The Maryland Bankers Association (MBA) represents FDIC-insured community, regional, and national banks, employing more than 26,000 Marylanders and holding more than $209 billion in deposits in over 1,200 branches across our State. The Maryland banking industry serves customers across the State and provides an array of financial services including residential mortgage lending, business banking, estates and trust services, consumer banking, and more.

SB 957_MDCC_Labor and Employment - Automated Emplo
Uploaded by: Hannah Allen
Position: UNF

MARYLAND
Chamber of Commerce

LEGISLATIVE POSITION:
Unfavorable
Senate Bill 957 – Labor and Employment - Automated Employment Decision Tools - Prohibition
Senate Finance Committee
Thursday, March 14, 2024

Dear Chairwoman Beidle and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 6,800 members and federated partners working to develop and promote strong public policy that ensures sustained economic health and growth for Maryland businesses, employees, and families.

SB 957 would prohibit an employer from using an automated employment decision tool unless the tool was subject to an impact assessment each year that determines that using the tool would not involve a high-risk action. It also requires an employer to notify each applicant within 30 days that the automated employment decision tool was used.

Impact Assessment
SB 957 imposes requirements on employers that are burdensome and not feasible. The timing requirement to complete impact assessments is problematic. The legislation requires an impact assessment be completed "during the year that immediately precedes the date the employer first begins using the automated employment decision tool". If an employer is already using a tool, they cannot retroactively conduct the impact assessment for prior usage. Also, what type of evaluation would be considered an "impact assessment"? And who is responsible for completing the impact assessment? The employer would not be in a position to complete the assessment themselves, so would this fall on the Maryland Department of Labor? This raises the question of whether the Department has existing resources and staff to carry out this new requirement. Additionally, an annual impact assessment that establishes no discrimination seems very burdensome and difficult to assess.

Liability
Many employers may not realize they utilize AI in their operations and hiring practices. However, if they engage a recruiting firm, a common practice, and the firm utilizes AI-powered software without the employer's awareness, it raises concerns that the employer could be held liable with civil penalties assessed per violation. Furthermore, if an employer doesn't realize a contracted recruiting firm is using AI-powered hiring tools and the employer is found in violation, they would be held liable for *each* failure to provide the notice, potentially resulting in hundreds of violations (applicants) just for one job posting.

New York City Legislation
We urge the committee to consider very similar legislation that was passed in New York City. Researchers at Cornell University concluded that the law has very limited value for job seekers.

The city then modified the law by narrowing the scope to only cover automated employment decision tools that are being used without any human oversight, however they are still struggling with implementation and this law has not been proven to elicit compliance.

Definitions
The Chamber has concerns with definitions used in SB 957. "Algorithmic decision system" is defined as, *"a computational process that facilitates decision making, including decisions derived from machines, statistics, facial recognition, and decisions on paper"*. Instead, we suggest that this means *"a system or service that uses artificial intelligence and is specifically intended to autonomously make consequential decisions. An automated decision tool does not include a system or service that is purely accessory to algorithmic discrimination or a consequential decision"*. This ensures that SB 957 does not capture every day administrative tools like video conference software or autocorrect.

The "automated employment decision tool" definition is overly restrictive and unnecessarily narrow. There are numerous potential applications for such tools, some of which may not yet be fully understood. Instead of delineating prescribed usage guidelines for these tools, it would be more prudent to identify the prohibited uses or highlight existing illegal practices under employment laws, affirming their continued illegality when utilized with an automated employment decision tool.

The Chamber believes that the use of AI in the hiring and promoting process has been essential in helping streamline the review, outreach, vetting, and onboarding process of potential employees, but we are concerned SB 957 would impede the ability of businesses to find and hire qualified candidates. Any potential limitation on the use of technology for hiring purposes could lead to unnecessary barriers to finding qualified candidates for a job. This is not an appropriate policy choice given the current and historically tight labor market.

For these reasons, the Chamber respectfully requests an **unfavorable report** on **SB 957.**

2024-03-14 CCIA Written Opposition Testimony for M

Uploaded by: Jordan Rodell

Position: UNF

March 14, 2024

Senate Finance Committee
Attn: Tammy Kraft, Committee Manager
3 East
Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 957 - "Labor and Employment - Automated Employment Decision Tools - Prohibition" (Unfavorable)

Dear Chair Beidle and Members of the Senate Finance Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose SB 957. CCIA is an international, not-for-profit trade association[1] representing a broad cross-section of communications and technology firms. While CCIA shares the Committee's concern and agrees more work can and must be done to study the potential implications of automated systems and related technology, SB 957 is not ready for primetime.

Automated decision-making is complex. The use of this technology can generate both benefits and drawbacks. Since AI systems are nuanced, there could be a variety of unintended consequences if one were to regulate these technologies in haste.

The span of automated decision-making is elaborate and often misunderstood.[2] At its core, algorithmically informed decision-making is simply a set of techniques that can be used for doing tasks that would otherwise be accomplished manually or using traditional, non-AI technology. These technologies are data-driven and can efficiently process massive amounts of data to create gains in productivity and accuracy and support technological and scientific breakthroughs. Algorithmically-informed decision models touch almost every aspect of our day-to-day activities. This includes filtering spam emails, using ride-share apps, online shopping, plagiarism scans, using smartwatches to track a workout, monitoring online test taking, and pre-authorizing medical insurance before a visit.

However, ambiguous and inconsistent regulation at the state or local levels would undermine business certainty, creating significant confusion surrounding compliance. This type of regulatory patchwork may deter new entrants, harming competition and consumers. While we understand the importance of mitigating potential algorithmic bias, we must also strike the correct balance to avoid stifling the use of technology when organizations are looking to use AI technology as an essential tool to help their businesses.

For example, the definition of "algorithmic decision system" provided in SB 957 is so overly broad, that it captures everyday administrative tools such as video conference software or autocorrect. CCIA suggests

[1] For over 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than $100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at https://www.ccianet.org/members.

[2] *See generally* Mike Masnick, *The Latest Version Of Congress's Anti-Algorithm Bill Is Based On Two Separate Debunked Myths & A Misunderstanding Of How Things Work*, Techdirt (Nov. 11, 2021), https://www.techdirt.com/2021/11/10/latest-version-congresss-anti-algorithm-bill-is-based-two-separate-debunked-myths-misunderstanding-how-things-work/.

changing the definition of "algorithmic decision system" to: "*algorithmic decision system" means a system or service that uses artificial intelligence and is specifically intended to autonomously make consequential decisions. An automated decision tool does not include a system or service that is purely accessory to a consequential decision*. This would ensure that the scope of the definition excludes AI tools that were not intended to fall within the purview of this legislation.

Additionally, the definition of "automated employment decision tool" suffers from similar problems. The definition is so broad that it would encompass a simple filter on a job application site that sorts applicants by basic requirements for the job (*e.g.*, a required degree). It would even capture the federal government's use of salary scales to set pay rates, as they employ a decision algorithm to determine the appropriate pay rate based on various factors.

Further, given the rapid pace of change in AI and the risk of stifling innovation and creating compliance ambiguities, it is important to provide businesses with an outline of the ways that an automated decision tool (ADT) cannot be used rather than to provide how it can be used. CCIA also believes it is important to emphasize that something that is illegal under current Maryland employment laws, such as discrimination based on a protected class, is illegal whether performed by a human or an ADT.

There are several ongoing studies at the national level aimed at understanding how to balance the capabilities and risks of algorithmically informed decision-making. These studies are intended to inform appropriately tailored and impactful regulation of such systems.

The AI systems that lawmakers seek to regulate are complex and warrant adequate understanding to reach intended outcomes appropriately. For example, the National Artificial Intelligence Initiative (NAII) was established by bipartisan federal legislation enacted in 2021.[3] The NAII is tasked with ensuring continued U.S. leadership in AI R&D while preparing the present and future U.S. workforce to integrate AI systems across all sectors of the economy and society. Importantly, NAII is doing so in partnership with academia, industry, non-profits, and civil society organizations. Most recently, the U.S. Congress passed legislation to create a training program to help federal employees responsible for purchasing and managing AI technologies better understand the capabilities and risks they pose to the American people.[4]

The National Institute of Standards and Technology (NIST) also launched the AI Risk Management Framework (RMF)[5], an ongoing effort aimed at helping organizations better manage risks in the design, development, use, and evaluation of AI products, services, and systems. The draft of the AI RMF was released in January 2023.[6] The NIST National Cybersecurity Center of Excellence[7] is also leading federal regulatory efforts to establish practices for testing, evaluating, verifying, and validating AI systems—exactly the type of standard that will help inform impact assessments such as those described in the bill.

[3] National Artificial Intelligence Initiative Act of 2020, Pub. L. No. 116-283, § 5001-5501, 134 Stat. 4523-4547 (2021).
[4] AI Training Act, Pub. L. No. 117-207, 136 Stat. 2238 (2022).
[5] NIST, *AI Risk Management Framework*, https://www.nist.gov/itl/ai-risk-management-framework (last accessed Feb. 24, 2023).
[6] NIST, *Artificial Intelligence Risk Management Framework (AI RMF 1.0)* (Jan. 2023), https://nvlpubs.nist.gov/nistpubs/ai/NIST.AI.100-1.pdf.
[7] NIST, *National Cybersecurity Center of Excellence, Mitigation of AI/ML Bias in Context*, https://www.nccoe.nist.gov/projects/mitigating-aiml-bias-context (last accessed Feb. 24, 2023).

The deliberate, thoughtful, and bipartisan fashion in which leaders at the federal level are approaching the wide variety of issues associated with artificial intelligence and algorithmic decision-making is encouraging. These ongoing studies by national experts should signal the complexity of the issue. Lawmakers should wait for and review forthcoming best practices by technical experts to help inform the development of national standards and regulations.

Key definitions necessary for businesses to comply with impact assessment requirements should be clear.

Under the current definitions provided requiring businesses to carry out impact assessments for automated employment decision tools, many of the outlined requirements are unclear and difficult for businesses to comply with. For example, it is unclear what type of evaluation can be considered an "impact assessment" under its current definition. Additionally, an employer may use an ADT if the tool has undergone an impact assessment; however, the bill does not specify who must carry out the assessment, whether the results of the assessment, possibly containing proprietary information, will be publicized, and where those assessments would be housed within the Maryland Department of Labor. Employers may also be unaware of the use of an ADT if they utilize a recruitment service that uses an ADT but does not disclose it to the employer.

Further, the requirement to carry out an impact assessment for an ADT during the year that immediately precedes the date the employer first begins using the ADT is problematic. Specifically, it is not clear how a business would comply with this requirement if the employer is already using an ADT. In this case, an employer lacks the ability to retrospectively conduct an impact assessment.

* * * * *

CCIA urges Committee members to first study both the benefits and drawbacks of algorithmic technologies and to engage with practitioners and stakeholders to support the ongoing development of practicable solutions. It is also important to note that we have already seen Governments such as New York City recently pass similar legislation that has been delayed due to complexities regarding implementation. We appreciate the Committee's consideration of these comments and stand ready to provide additional information as the General Assembly considers proposals related to technology policy.

Sincerely,

Jordan Rodell
State Policy Manager
Computer & Communications Industry Association

sb957test - Automated Employment Decision Tools -

Uploaded by: Marcus Jackson

Position: UNF

Associated Builders and Contractors, Inc.

Maryland Joint Legislative Committee

The Voice of Merit Construction

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March 14, 2024

TO: FINANCE COMMITTEE

FROM: ASSOCIATED BUILDERS AND CONTRACTORS

RE: S.B. 957 – LABOR AND EMPLOYMENT – AUTOMATED EMPLOYMENT DECISION TOOLS – PROHIBITION

POSITION: OPPOSE

Associated Builders and Contractors (ABC) opposes S.B. 957 which is before you today for consideration.

This bill would prohibit an employer from using an automated employment decision tool to make certain employment decisions; and requiring an employer, under certain circumstances, to notify an applicant for employment of the employer's use of an automated employment decision tool within 30 days after the use; and providing certain penalties per violation for an employer that violates the notification requirement of the Act.

As written, S.B. 957 would prohibit businesses from having efficiency and cost-effectiveness. The bill would eliminate the most immediate benefit, which is the efficiency these tools bring into the hiring and management processes. AI provides a more holistic view of candidates or employment decisions.

It is our belief that dictating how a private employer can screen an applicant is highly irregular and unnecessary.

On behalf of the over 1,500 ABC members in Maryland, we respectfully request an unfavorable report on S.B. 957.

Marcus Jackson, Director
Government Affairs

[MD] SB 957 AEDTs_TechNet_pdf.pdf
Uploaded by: margaret durkin
Position: UNF

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THE VOICE OF THE
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March 13, 2024

The Honorable Pam Beidle
Chair
Senate Finance Committee
Maryland Senate
3E Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

RE: SB 957 (Hester) - Labor and Employment - Automated Employment Decision Tools – Prohibition.

Dear Chair Beidle and Members of the Committee,

On behalf of TechNet, I'm writing to offer comments on SB 957, related to automated employment decision tools.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.2 million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance. TechNet has offices in Austin, Boston, Chicago, Denver, Harrisburg, Olympia, Sacramento, Silicon Valley, and Washington, D.C.

Artificial intelligence, machine learning, and the algorithms that often support artificial intelligence have generated policymaker interest. Our member companies are committed to responsible AI development and use.

We appreciate the high-risk threshold that is set in SB 957, as it aligns with the well-established standard of unlawful discrimination that already exists in the context of employment, creating consistency with federal law and clear expectations for compliance.

In the definition of "Algorithmic Decision System", the term "facilitates decision making" is very broad and could include simple processes like search results for resumes, which is considered low-risk. We request shifting focus to any high-risk applications and using language from NYC Local Law 144 (2021). We request the

addition of "substantially assists or replaces" and striking "~~facilitates~~". The suggested definition would read:

> **(2) "ALGORITHMIC DECISION SYSTEM" MEANS A COMPUTATIONAL PROCESS THAT SUBSTANTIALLY ASSISTS OR REPLACES DECISION MAKING, INCLUDING DECISIONS DERIVED FROM MACHINES, STATISTICS, FACIAL RECOGNITION, AND DECISIONS ON PAPER.**

Under the definition of "Algorithmic Employment Decision Tool", we suggest amending that definition to include "using criteria not set by a natural person". The suggested definition would read:

> **(3) "AUTOMATED EMPLOYMENT DECISION TOOL" MEANS AN ALGORITHMIC DECISION SYSTEM THAT, USING CRITERIA NOT SET BY A NATURAL PERSON, AUTOMATICALLY FILTERS:…**

If a natural person tells the tool to automatically filter out certain types of candidates, then the human should be liable for any outputs, not the tool. The bill should aim to regulate only tools that use criteria set by the AEDT itself, not a natural person. Adding this language would achieve that.

Thank you for the opportunity to share our concerns and suggested changes on SB 957. We look forward to continuing these discussions with you.

Sincerely,

Margaret Durkin

Margaret Durkin
TechNet Executive Director, Pennsylvania & the Mid-Atlantic

SB0957 - MSBA Informational Letter (2024.03.13).pd
Uploaded by: Shaoli Katana
Position: INFO

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To: Members of the Senate Judicial Proceedings Committee
From: Maryland State Bar Association (MSBA)
Subject: SB 957 - Labor and Employment – Automated Employment Decision Tools
Date: March 13, 2024
Position: **Informational Letter**

The Maryland State Bar Association (MSBA) files this informational letter regarding **Senate Bill 957 – Labor and Employment – Automated Employment Decision Tools.** SB 957 prohibits, subject to a certain exception, an employer from using an automated employment decision tool to make certain employment decisions and requires notification to an applicant of use of an automated employment decision tool.

MSBA represents more attorneys than any other organization across the state in all practice areas. Through its advocacy committees and various practice-specific sections, MSBA monitors and takes positions on legislation that protects the legal profession, preserves the integrity of the judicial system, and ensures access to justice for Marylanders.

As drafted, SB 957 does not specify whether both public and private sectors are included under the definition of an "employer." As other Subtitles under Title 3 of the Labor and Employment Code include a definition of employer, MSBA suggests amending the bill to similarly include a definition of employer in § 3-718 or in Subtitle 7 for clarity.

Contact: Shaoli Katana, Advocacy Director (shaoli@msba.org, 410-387-5606)