

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1323 (Delegate Hill)
Health and Government Operations

Algorithmic Decision Systems – Procurement and Discriminatory Acts

This bill requires State agencies that purchase a product or service that is or contains an algorithmic decision system, as defined, to purchase only products or services that adhere to responsible artificial intelligence (AI) standards, as specified. The Board of Public Works (BPW) must adopt regulations to implement this requirement. The bill also includes specified acts performed through an algorithmic decision system in the definition of “discriminatory acts” subject to adjudication by the Maryland Commission on Civil Rights (MCCR).

Fiscal Summary

State Effect: The bill is generally procedural in nature and is not anticipated to have a material effect on State finances. BPW and MCCR can implement the bill with existing resources.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: An “algorithmic decision system” is a computational process – including one derived from machine learning, statistics, or other data processing or AI techniques – that makes a decision, or facilitates human decision making, in a manner that impacts individuals.

Responsible AI standards include:

- the avoidance of harm, including the minimization of risks of physical or mental injury, unjustified deletion or disclosure of information, and the unwarranted damage to property, reputation, or environment;
- a commitment to transparency, including the full disclosure to the State of the capabilities, limitation, and potential problems with any algorithmic decision system;
- giving primacy to fairness; and
- a comprehensive and thorough evaluation and analysis of the system's impacts and potential risks.

Any discriminatory act prohibited in current law that is performed through an algorithmic decision system is a discriminatory act that may be the subject of a complaint filed with MCCR.

Current Law: There are no standards for the purchase of algorithmic decision systems in State law.

MCCR investigates complaints of discrimination in employment, housing, public accommodations, and State contracts from members of protected classes that are covered under those laws. Its mandate is to protect against discrimination based on race, color, religion or creed, sex, age, national origin or ancestry, marital status, physical or mental disability, sexual orientation, and gender identity. MCCR is governed by a nine-member commission appointed by the Governor and confirmed by the Senate. Commission members are appointed to serve six-year terms.

Department of Information Technology

The Department of Information Technology (DoIT) manages and oversees the purchase, lease, and rental of information technology (IT) by Executive Branch agencies. Agencies must develop their own IT policies, standards, and plans that must be consistent with the State's IT master plan developed by DoIT. DoIT and the Secretary of Information Technology are also responsible for:

- developing and enforcing IT policies, procedures, and standards;
- providing technical assistance, advice, and recommendations to any unit of State government;
- reviewing agency project plans to make information and services available to the public over the Internet;
- developing and maintaining a statewide IT master plan, as specified; and

- adopting and enforcing nonvisual access standards to be used in the procurement of IT services, as specified.

While DoIT oversees most Executive Branch agencies, some agencies, such the Maryland Stadium Authority, the University System of Maryland, and the Maryland Port Authority, are exempt from DoIT's oversight. The Legislative and Judicial branches are not subject to DoIT oversight.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Department of Information Technology; Maryland Commission on Civil Rights; Department of General Services; Maryland Department of Health; Board of Public Works; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - March 15, 2021
rh/ljm

Analysis by: Michael C. Rubenstein

Direct Inquiries to:
(410) 946-5510
(301) 970-5510