Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 655   (Senator Hester)

Judicial Proceedings   Judiciary

Courts - Artificial Intelligence Evidence Clinic Pilot Program - Establishment

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This bill establishes an Artificial Intelligence Evidence Clinic Pilot Program in the Administrative Office of the Courts (AOC) to provide expertise in artificial intelligence (AI) to the circuit courts and the District Court in the form of expert testimony on the authenticity of electronic evidence that a court determines may have been created or altered using AI. The program must (1) engage college and university students, recent graduates, and faculty and technology professionals dedicated to the research and advancement of AI to develop expert witness resources for courts to use in cases implicating the use of AI and (2) prioritize civil cases in which one or more parties do not have legal representation or reasonable access to expert testimony. AOC must administer the program. For fiscal 2027 and 2028, the Governor may include in the annual budget bill an appropriation of $250,000 for the program. **The bill takes effect July 1, 2025.**

Fiscal Summary

State Effect: No assumed effect in FY 2026. General fund expenditures increase by $250,000 in FY 2027 and 2028, consistent with the amount specified in the bill's authorized funding provision, and may increase beyond FY 2028, as discussed below. Higher education revenues and expenditures correspondingly increase for institutions of higher education in the State selected to receive a grant under the pilot program.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Higher Ed Rev.	$0	$250,000	$250,000	-	-
GF Expenditure	$0	$250,000	$250,000	-	-
Higher Ed Exp.	$0	$250,000	$250,000	-	-
Net Effect	$0	($250,000)	($250,000)	(-)	(-)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to materially impact local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: AOC must administer the pilot program by developing grant applications and awarding grants to eligible institutions of higher education. Up to 20% of the money appropriated to the program may be used for administrative expenses. The terms of an agreement between AOC and a grantee may include a clause that requires AOC to hold harmless the grantee against any claim alleging liability or damages relating to the provision of expertise in AI as part of the program, except in cases of willful or wanton misconduct, gross negligence, or intentionally tortious conduct.

Current Law:

Artificial Intelligence – Definition

Under § 3.5-801 of the State Finance and Procurement Article – the applicable definition as used in the bill – "Artificial Intelligence" means a machine-based system that (1) can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments; (2) uses machine and human-based inputs to perceive real and virtual environments and abstracts those perceptions into models through analysis in an automated manner; and (3) uses model inference to formulate options for information or action.

Maryland Rules – Requirement of Authentication or Identification

The admissibility of electronic evidence created or altered by AI is not explicitly covered in statute or the Maryland Rules. However, under Maryland Rule 5-901, generally, the requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims. By way of illustration only, and not by way of limitation, Maryland Rule 5-901(b) lists examples of authentication or identification that conform with the rule's requirements, including (1) testimony of a witness with knowledge that the offered evidence is what it is claimed to be; (2) circumstantial evidence, such as appearance, contents, substance, internal patterns, location, or other distinctive characteristics, that the offered evidence is what it is claimed to be; and (3) evidence describing a process or system used to produce the proffered exhibit or testimony and showing that the process or system produces an accurate result.

In a recent case involving the admissibility into evidence of a video, the Maryland Supreme Court stated that, "video footage, like social media, is susceptible to alteration, and the increased availability of new technology, particularly the advent of image-generating AI, may present unique challenges in authenticating videos and photographs." However, the court further noted that photographic alterations are not new or unique to digital imaging, although they might be easier in the digital age. *Mooney v. State*, 487 Md. 701, 734-35 (2024).

Artificial Intelligence – State Agencies

Although not applicable to the judicial branch, Chapter 496 of 2024 expanded the responsibilities of the Secretary of Information Technology and the Department of Information Technology (DoIT) as they relate to the procurement and use of AI by State agencies and codified the Governor's AI Subcabinet that was established by Executive Order 01.01.2024.02. Broadly, among other things, the Act:

- requires DoIT to adopt policies and procedures, in consultation with the Governor's AI Subcabinet, concerning the development, procurement, deployment, use, and ongoing assessment of systems that employ high-risk AI by a unit of State government;
- prohibits units of State government from procuring or deploying a new system that employs AI unless the system complies with the policies and procedures adopted by DoIT;
- requires each unit of State government to conduct a data inventory to identify data that meets criteria established by the Chief Data Officer and that is (1) necessary for the operations of the unit or otherwise required to be collected as a condition to receive federal funds or by federal or State law and (2) in a form prescribed by the Chief Data Officer, including when the data is used in AI; and
- requires each unit of State government to conduct an inventory of systems that employ high-risk AI.

State Fiscal Effect: This analysis assumes that the pilot program begins awarding grants in fiscal 2027, and that during fiscal 2026, AOC establishes procedures to implement a grant program, including developing a grant application and soliciting proposals from eligible institutions of higher education. Although the bill does not establish a mandated appropriation for the program, this analysis assumes that general fund expenditures increase by $250,000 annually in fiscal 2027 and 2028, consistent with the authorized funding provision included in the bill. This analysis reflects a *specific* funding level only in the years specified in the bill, however, the Department of Legislative Services notes that the pilot program is not subject to a termination date. Accordingly, general fund expenditures may continue beyond fiscal 2028 if discretionary funding continues to be

provided. Higher education revenues and expenditures correspondingly increase, reflecting the receipt and spending of grant funding. Although the bill authorizes up to 20% of the appropriation to be used for administrative costs, this analysis assumes the Judiciary can use existing resources to administer the program.

Additional Comments: Although the bill authorizes the Governor to include an appropriation to the program, it is the Chief Justice of the Supreme Court of Maryland who develops the budget for the Judiciary, which is then included as part of the annual State budget submitted by the Governor to the General Assembly for consideration.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 966 (Delegate Cardin) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Budget and Management; Department of Legislative Services

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