Maryland
DEPARTMENT OF
INFORMATION TECHNOLOGY

Wes Moore | Governor
Aruna Miller | Lt. Governor
Katie Savage | Secretary

TO: House Economic Matters Committee
FROM: Department of Information Technology
RE: House Bill 823- Generative Artificial Intelligence - Training Data Transparency
DATE: February 18, 2025
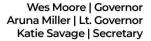**POSITION:** Letter of concern

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The Honorable Delegate C. T. Wilson
House Economic Matters Committee
230 Taylor House Office Building
Annapolis, Maryland 21401

Dear Chairman Wilson,

The Department of Information Technology (DoIT) is concerned about house bill 823-
Generative Artificial Intelligence - Training Data Transparency. The Department of Information
Technology (DoIT) appreciates the intent behind house bill 823, which seeks to enhance
transparency in the development and deployment of generative artificial intelligence (GenAI)
systems. Increased transparency regarding training data is a commendable goal, as it would
provide the State and consumers with greater insight into bias, privacy concerns, and potential
copyright issues inherent in GenAI models. This aligns with ongoing discussions around
responsible AI governance and represents a helpful evolution in AI policy. **However, DoIT
recommends the targeted amendments below to ensure the bill achieves its goals while
avoiding unintended consequences.**

The bill defines "developer" as a person or unit of State or local government that designs,
codes, produces, or substantially modifies a GenAI system. Given that most AI systems used by
the State are developed by external providers, DoIT recommends revising this definition to
match California AI Bill AB 2013 of a developer to clearly apply to commercial AI developers
rather than State/local agencies. This would align Maryland's legislation with similar efforts in
other jurisdictions.

Furthermore, the scope of the bill's documentation requirements is unclear. The language states
that the bill applies to GenAI systems "for use by the general public in the State," but it does not
specify whether this includes systems developed or procured by the government for public use,
or if it extends to any GenAI system accessible to Maryland residents. Additionally, it is

uncertain whether the requirements would apply to AI systems used internally by the State workforce or only those intended for public access. **This ambiguity could lead to confusion in implementation and enforcement.**
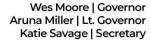
Another significant concern is the bill's potential impact on Maryland's access to AI services. Leading AI companies, such as Google, Microsoft, and OpenAI, often cite "trade secrets" to avoid disclosing details about the training data used in their models. Unlike California, Maryland does not have sufficient market leverage to force compliance with such requirements. If major AI providers refuse to abide by the bill's provisions, Maryland may be forced to block access to critical AI services, limiting the State's ability to leverage cutting-edge technology. **This could also discourage AI companies from offering services in Maryland, reducing both consumer choice and economic growth.**

Given that California's law has yet to be implemented and is expected to face legal challenges, Maryland should consider delaying similar legislation until court rulings provide more clarity on enforcement and compliance issues. Rushing to enact this bill without those insights may create unintended barriers to AI development and use within the State. It would be more prudent to observe how California's law plays out before introducing comparable regulations in Maryland.

Additionally, the bill creates an economic and compliance burden that may outweigh its intended benefits. If AI providers perceive the risk of disclosing training data as greater than the economic benefit of operating in Maryland, they may choose to withdraw services from the State. This could have long-term economic consequences by limiting innovation and investment in Maryland's AI ecosystem. **Furthermore, the bill's enactment date of October 2025 is unrealistic given the significant compliance challenges that would be imposed on developers.**

The bill also contains vague and unclear language that could complicate enforcement. The phrase "substantially modifies" is open to interpretation, as GenAI systems are constantly being updated and refined. Without a clear definition, it is unclear whether every minor update to an AI system would trigger compliance requirements. The California law provides more specific criteria for defining modifications, which should be incorporated into Maryland's version. Moreover, the definitions of "rights-impacting AI" and "safety-impacting AI" assume that developers can predict the impact of a system before it is even developed. A more effective approach would be to apply the bill's requirements to any AI system that leverages personal or demographic data, as these inherently affect individuals and groups.

In addition, the bill does not define what constitutes "training data," leaving open-ended questions about whether this includes State data, personally identifiable information (PII), public

data, or synthetic data. A clear definition is necessary to avoid confusion and ensure that developers understand their compliance obligations. The bill should also specify that AI documentation must be provided in both human-readable and machine-readable formats to enhance accessibility for all users.

While DoIT supports the goal of increasing transparency in AI, HB 823 raises too many unresolved questions and implementation challenges in its current form. A more effective approach would be to refine the definition of "developer" to focus on commercial AI providers rather than State agencies, clarify the bill's scope to ensure it aligns with intended consumer protections, and delay implementation until lessons can be learned from California's experience. Overly restrictive requirements could not only limit Maryland's access to AI services but also hinder the State's ability to innovate and compete in an evolving technological landscape.

For these reasons, I respectfully urge the committee to re-consider a more balanced approach that safeguards consumers without stifling innovation or limiting Maryland's AI capabilities. Thank you for your time and consideration.

Best,

Melissa Leaman
Acting Secretary
Department of Information Technology