

1.1 A bill for an act  
1.2 relating to employment; regulating the use of automated decision systems in  
1.3 employment settings; proposing coding for new law in Minnesota Statutes, chapter  
1.4 181.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [181.9921] DEFINITIONS.

1.7 (a) For the purposes of sections 181.9921 to 181.9927, the following terms have the  
1.8 meanings given.

1.9 (b) "Artificial intelligence" means an engineered or machine-based system that varies  
1.10 in its level of autonomy and that can, for explicit or implicit objectives, infer from the input  
1.11 it receives how to generate outputs that can influence physical or virtual environments.

1.12 (c) "Authorized representative" means any person or organization appointed by the  
1.13 worker to serve as an agent of the worker. Authorized representative does not include a  
1.14 worker's employer.

1.15 (d) "Automated decision system" means any computational process derived from machine  
1.16 learning, statistical modeling, data analytics, or artificial intelligence that issues simplified  
1.17 output, including a score, classification, or recommendation, that is used to assist or replace  
1.18 human discretionary decision-making and materially impacts natural persons. An automated  
1.19 decision system does not include a spam email filter, firewall, antivirus software, identity  
1.20 and access management tools, calculator, database, dataset, or other compilation of data.

2.1 (e) "Automated decision system output" means any information, data, assumptions,  
2.2 predictions, scoring, recommendations, decisions, or conclusions generated by an automated  
2.3 decision system.

2.4 (f) "Electronic monitoring tool" means any system, application, or instrument that  
2.5 facilitates the collection of data concerning worker activities, communications, actions,  
2.6 biometrics, or behaviors, by means other than direct observation by a person, including, but  
2.7 not limited to, video or audio surveillance, continuous incremental time-tracking tools,  
2.8 geolocation, electromagnetic tracking, or photoelectronic tracking, or that utilizes a  
2.9 photo-optical system or other means.

2.10 (g) "Employer" means any person who directly or indirectly, or through an agent, vendor,  
2.11 or any other person, employs or exercises control over the wages, benefits, other  
2.12 compensation, hours, working conditions, access to work or job opportunities, or other  
2.13 terms or conditions of employment, of any worker. This includes all units of state and local  
2.14 government, but does not include the federal government. Employer includes a labor  
2.15 contractor or vendor of a person defined as an employer under this paragraph.

2.16 (h) "Employment-related decision" means any decision by an employer that impacts  
2.17 wages, wage setting, benefits, compensation, work hours, work schedule, performance  
2.18 evaluation, hiring, recruitment, discipline, promotion, termination, job tasks, skill  
2.19 requirements, work responsibilities, assignment of work, access to work and training  
2.20 opportunities, productivity requirements, workplace health and safety, and any other terms  
2.21 or conditions of employment. For persons classified as independent contractors or for  
2.22 candidates for employment, this means the equivalent of these decisions based on their  
2.23 contract with or relationship to the employer.

2.24 (i) "Essential job functions" means the fundamental duties of a position, as revealed by  
2.25 objective evidence such as the amount of time workers spend performing each function,  
2.26 the consequences of not requiring individuals to perform the function, the terms of any  
2.27 applicable collective bargaining agreement, workers' past and present work experiences and  
2.28 performance in the position in question, and the employer's reasonable, nondiscriminatory  
2.29 judgment as to which functions are essential. Past and current written job descriptions and  
2.30 the employer's reasonable, nondiscriminatory judgment as to which functions are essential  
2.31 may be evidence as to which functions are essential for achieving the purpose of the job,  
2.32 but may not be the sole basis for this determination absent the objective evidence described  
2.33 above.

3.1 (j) "Individualized" means specific to an individual or group, band, class, or tier of  
3.2 individuals with particular personal characteristics, behaviors, or biometrics.

3.3 (k) "Vendor" means a third party, subcontractor, or entity engaged by an employer or  
3.4 an employer's labor contractors to provide software, technology, or a related service that is  
3.5 used to collect, store, analyze, or interpret worker data or worker information.

3.6 (l) "Worker" means any natural person who is a job applicant to, an employee of, or an  
3.7 independent contractor providing service to, or through, an employer.

3.8 (m) "Worker data" means any information that identifies, relates to, describes, is  
3.9 reasonably capable of being associated with, or could reasonably be linked, directly or  
3.10 indirectly, with a worker, regardless of how the information is collected, inferred, or obtained.  
3.11 It includes, but is not limited to:

3.12 (1) personal identity information, including the individual's name, contact information,  
3.13 government-issued identification numbers, financial information, criminal background, or  
3.14 employment history;

3.15 (2) biometric information, including data generated by automatic measurements of an  
3.16 individual's biological characteristics, such as a fingerprint, a faceprint, a voiceprint, eye  
3.17 retinas, irises, gait, or other unique biological patterns or characteristics that can be used,  
3.18 singly or in combination with other data, to identify a specific individual or to collect  
3.19 information about an individual;

3.20 (3) health, medical, lifestyle, and wellness information, including the individual's medical  
3.21 history, physical or mental condition, diet or physical activity patterns, heart rate, medical  
3.22 treatment or diagnosis by a health care professional, health insurance policy number,  
3.23 subscriber identification number, or other unique identifier used to identify the individual;  
3.24 and

3.25 (4) any data related to workplace activities, including the following:

3.26 (i) human resources information, including the contents of an individual's personnel file  
3.27 or performance evaluations;

3.28 (ii) work process information, such as data relating to an individual worker's performance  
3.29 or productivity, including but not limited to the quality and quantities of tasks performed,  
3.30 quality and quantities of items or materials handled or produced, rates or speeds of tasks  
3.31 performed, measurements or metrics of worker performance in relation to a quota, and time  
3.32 categorized as performing tasks or not performing tasks;

4.1 (iii) data that captures workplace communications and interactions, including emails,  
4.2 texts, internal message boards, screenshots, and customer interaction and ratings;

4.3 (iv) device usage and data, including, but not limited to, keystroke recording, website,  
4.4 software, and application utilization, calls placed, or geolocation information;

4.5 (v) audio, photo, or video data or other information collected from sensors, including  
4.6 movement tracking, thermal sensors, voiceprints, or facial recognition, emotion, and gait  
4.7 recognition;

4.8 (vi) inputs to or outputs generated by an automated decision system that are linked to  
4.9 the individual;

4.10 (vii) data collected through electronic monitoring or continuous incremental time-tracking  
4.11 tools; and

4.12 (viii) data collected or generated on workers to mitigate the spread of infectious diseases,  
4.13 including COVID-19, or to comply with public health measures.

4.14 **Sec. 2. [181.9922] PRE-USE NOTICE.**

4.15 Subdivision 1. **Pre-use notice; provision.** (a) An employer must provide a written notice  
4.16 that an automated decision system is in use at the workplace for the purpose of making  
4.17 employment-related decisions, to a worker who will be directly or indirectly affected by  
4.18 the automated decision system, or their authorized representative, and to any union  
4.19 representing workers who could be directly or indirectly affected by the automated decision  
4.20 system.

4.21 (b) The notice in paragraph (a) must be provided:

4.22 (1) at least 30 days before the introduction of the automated decision system, if the  
4.23 automated decision system is introduced after the effective date of this section;

4.24 (2) no later than September 1, 2026, if the employer is using an existing automated  
4.25 decision system as of the effective date of this section;

4.26 (3) to a job applicant or new worker, before the employer collects the applicant's or  
4.27 worker's personal information that the employer plans to process using the automated  
4.28 decision system, and the notice must be prominent;

4.29 (4) at least 30 days before the implementation of any significant change to the automated  
4.30 decision system or how the employer is using the automated decision system; and

5.1 (5) to a union representing workers who will be subject to the automated decision system,  
5.2 on a timeline that provides a meaningful opportunity to bargain over the use, scope, and  
5.3 impact of the automated decision system prior to its deployment or modification.

5.4 (c) Every time an employer provides a notice under paragraph (a), a copy of that notice  
5.5 must be submitted to the commissioner of labor and industry within ten days of when it was  
5.6 provided to the worker. Copies of notices under paragraph (a) must also be made available  
5.7 to authorized representatives upon request.

5.8 (d) Notices under paragraph (a) must be:

5.9 (1) written in plain language as a separate, standalone communication;

5.10 (2) in the language in which routine communications and other information are provided  
5.11 to workers; and

5.12 (3) provided via a simple and easy-to-use method, including an email, hyperlink, or  
5.13 other written format.

5.14 (e) A job applicant or worker must receive the notice required under this section and  
5.15 respond with affirmative written consent before an automated decision system may be used  
5.16 on that worker.

5.17 (f) If reasonable alternatives to the use of the automated decision system exist, the worker  
5.18 must be allowed to opt out of being subject to the automated decision system.

5.19 Subd. 2. **Pre-use notice; contents.** The notice required under subdivision 1 must contain  
5.20 the following information:

5.21 (1) a plain language explanation of the nature, purpose, and scope of the decisions for  
5.22 which the automated decision system will be used, including the specific employment-related  
5.23 decisions potentially affected;

5.24 (2) the specific category and sources of worker data that the automated decision system  
5.25 will use or collect, and how that data was or will be collected;

5.26 (3) the logic used in the automated decision system, including the key parameters that  
5.27 affect the output of the automated decision system, and the type of outputs the automated  
5.28 decision system will produce;

5.29 (4) the individuals, vendors, and entities that created the automated decision system and  
5.30 the individuals, vendors, and entities that will run, manage, or interpret the results of the  
5.31 automated decision system output;

6.1 (5) the job qualifications and characteristics that the automated decision system will  
6.2 assess, what worker data or attributes the system will use to conduct that assessment, and  
6.3 what kind of outputs the system will produce as an evaluation of the worker;

6.4 (6) the results of any impact assessments of the automated decision system, whether  
6.5 performed by the employer or the automated decision system vendor, and how to access  
6.6 that information;

6.7 (7) an up to date list of all automated decision systems the employer is currently using;  
6.8 and

6.9 (8) a description of the worker's rights under sections 181.9922 to 181.9927.

6.10 Sec. 3. [181.9923] RECORDS.

6.11 Subdivision 1. **Data records.** (a) Employers must maintain records of worker data  
6.12 collected, used by, or produced by an automated decision system and any input or output  
6.13 data used by or produced by the automated decision system or used as corroborating evidence  
6.14 by a human reviewer for 36 months after its most recent collection, production, or use to  
6.15 ensure compliance with requests for data from workers or the commissioner of labor and  
6.16 industry.

6.17 (b) Employers must destroy any worker data collected, used by, or produced by an  
6.18 automated decision system and any input or output data used by or produced by the automated  
6.19 decision system or used as corroborating evidence by a human reviewer no later than 37  
6.20 months after its most recent collection, production, or use unless the worker has provided  
6.21 written and informed consent to the retention of their data by the employer.

6.22 (c) Employers must protect the confidentiality, integrity, and accessibility of worker  
6.23 data using data security practices consistent with data and cyber privacy laws and appropriate  
6.24 to the volume and nature of the worker data collected.

6.25 Subd. 2. **Record requests.** (a) A worker has the right to request a copy of:

6.26 (1) any of their data collected, used by, or produced by an automated decision system;

6.27 (2) any input or output data used by or produced by the automated decision system; and

6.28 (3) corroborating evidence used by a human reviewer.

6.29 (b) The employer must provide copies of the data requested within seven days of receiving  
6.30 a worker's request.

6.31 Subd. 3. **Record corrections.** (a) A worker has the right to request corrections to:

- 7.1 (1) any worker data collected, used by, or produced by an automated decision system;  
7.2 (2) any input or output data used by or produced by the automated decision system; and  
7.3 (3) any corroborating evidence used by a human reviewer.

7.4 (b) An employer that receives a request to correct any of the information listed in  
7.5 paragraph (a) must investigate and determine whether such disputed data is inaccurate.

7.6 (c) If an employer determines that the disputed data is inaccurate, the employer must:

7.7 (1) promptly correct the disputed data and inform the worker of the employer's decision  
7.8 and action;

7.9 (2) review and adjust any employment-related decisions that were partially or solely  
7.10 based on the inaccurate data, and inform the worker of the adjustment; and

7.11 (3) inform any third parties with which the employer shared the inaccurate data, or from  
7.12 which the employer received the inaccurate data, of the error and direct them to correct it.

7.13 (d) If an employer, upon investigation, determines that the disputed data is accurate, the  
7.14 employer must inform the worker of:

7.15 (1) the decision not to amend the disputed data;

7.16 (2) the steps taken to verify the accuracy of the data; and

7.17 (3) the evidence supporting the decision not to amend the disputed data.

7.18 **Sec. 4. [181.9924] EMPLOYER REQUIREMENTS.**

7.19 **Subdivision 1. Prohibitions.** (a) An employer is prohibited from using an automated  
7.20 decision system to:

7.21 (1) prevent compliance with or cause a violation of any federal, state, or local law or  
7.22 regulation;

7.23 (2) obtain or infer a worker's immigration status; veteran status; ancestral history; religious  
7.24 or political beliefs; health or reproductive status, history, or plan; emotional or psychological  
7.25 state; neural data; sexual or gender orientation; disability; criminal record; or credit history;

7.26 (3) make predictions or inferences about a worker's behavior, beliefs, intentions,  
7.27 personality, emotional state, health, or other characteristics or behavior that are unrelated  
7.28 to the worker's essential job functions;

7.29 (4) identify, predict, or take adverse action against a worker for exercising their legal  
7.30 rights;

8.1 (5) draw on facial recognition, gait, or emotion recognition technologies; or

8.2 (6) collect data for a purpose that was not disclosed in the notice required by section  
8.3 181.9922.

8.4 (b) An employer must not use an automated decision system that uses individualized  
8.5 worker data as inputs or outputs to set compensation, unless the employer can demonstrate  
8.6 that:

8.7 (1) the input data is directly related to the ability of the worker to complete the task,  
8.8 such as education, training, experience, or seniority;

8.9 (2) the inputs used are clearly communicated to the worker such that the worker knows  
8.10 their compensation is a function of the identified attributes; and

8.11 (3) the employer uses the automated decision system either:

8.12 (i) not more than once per six-month period per worker; or

8.13 (ii) only in conjunction with a meaningful change in work duties, such as hiring or  
8.14 promotion.

8.15 (c) An employer must not retaliate against a worker in any way for refusing to follow  
8.16 the output of an automated decision system when the worker has a reasonable, good-faith  
8.17 belief that doing so would cause harm, discrimination, or otherwise violate a law or  
8.18 regulation.

8.19 (d) An employer must not take any adverse action against a worker based on data from  
8.20 a continuous time-tracking tool, except in cases of egregious misconduct.

8.21 Subd. 2. **Employment-related decisions.** (a) An employer must not rely solely on an  
8.22 automated decision system when making an employment-related decision.

8.23 (b) When an employer relies in part on an automated decision system in making an  
8.24 employment-related decision, the employer must: (1) ensure the accuracy of the automated  
8.25 decision system output; and (2) use a designated internal reviewer to conduct an investigation  
8.26 and compile corroborating information for the decision. This information may include, but  
8.27 is not limited to, supervisory or managerial evaluations, personnel files, employee work  
8.28 products, or peer reviews. The designated internal reviewer must:

8.29 (i) be granted sufficient authority, discretion, resources, and time to corroborate the  
8.30 automated decision system output;

9.1 (ii) have sufficient expertise in the operation of similar systems, and a sufficient  
9.2 understanding of the automated decision system in question to interpret its outputs as well  
9.3 as results of relevant impact assessments;

9.4 (iii) have the education, training, or experience sufficient to allow the reviewer to make  
9.5 a well-informed decision, including education about the limitations and biases of automated  
9.6 decision systems and training on workers' rights under sections 181.9921 to 181.9927; and

9.7 (iv) be protected from retaliation for exercising their responsibilities.

9.8 (c) When an employer cannot corroborate the automated decision system output, or the  
9.9 human reviewer has concluded that the automated decision system output is inaccurate,  
9.10 incomplete, or misleading, the employer must not rely on the automated decision system  
9.11 to make the employment-related decision.

9.12 **Sec. 5. [181.9925] POST-USE NOTICE AND RIGHT TO ACCESS.**

9.13 Subdivision 1. **Notice.** (a) An employer that has used an automated decision system to  
9.14 make an employment-related decision must provide the affected worker with a written  
9.15 notice:

9.16 (1) at the time the employer informs the worker of the decision, or no later than 15  
9.17 business days from the date of the decision, whichever is earlier; or

9.18 (2) if the decision will result in the discipline or termination of the worker, at least 30  
9.19 days before the discipline or termination will take effect.

9.20 (b) The notice in paragraph (a) must be all of the following:

9.21 (1) written in plain language as a separate, standalone communication;

9.22 (2) in the language in which routine communications and other information are provided  
9.23 to workers; and

9.24 (3) provided via a simple and easy-to-use method, including an email, hyperlink, or  
9.25 other written format.

9.26 (c) A notice under paragraph (a) must contain the following information:

9.27 (1) that the employer used an automated decision system to make one or more  
9.28 employment-related decisions with respect to the worker;

9.29 (2) a description of the worker's rights under sections 181.9922 to 181.9927;

10.1 (3) a form or a link to an electronic form for the worker to file an appeal or request  
10.2 detailed information about the data and automated decision system used in the decision;  
10.3 and

10.4 (4) that the employer is prohibited from retaliating against the worker for exercising  
10.5 their rights under this part.

10.6 (d) If an employer will use the same automated decision system in the same way multiple  
10.7 times a quarter, an employer must provide each affected employee:

10.8 (1) the full notice required by this section for the first use of the automated decision  
10.9 system each quarter; and

10.10 (2) a second notice at the end of the quarter that provides:

10.11 (i) the number of times the automated decision system was used that quarter;

10.12 (ii) the dates the automated decision system was used that quarter; and

10.13 (iii) a description of the worker's rights under sections 181.9922 to 181.9927, including  
10.14 the right to access information about each of those decisions.

10.15 Subd. 2. **Right to access.** (a) When responding to a worker's access request, an employer  
10.16 must provide the following information to the worker:

10.17 (1) a plain language explanation of the specific decision for which the employer used  
10.18 the automated decision system;

10.19 (2) the specific worker data that the automated decision system used and all specific  
10.20 worker outputs produced by the automated decision system in a simple and easy-to-use  
10.21 format;

10.22 (3) how the employer used the automated decision system output with respect to the  
10.23 worker, including:

10.24 (i) the rationale for the decision, including the specific role the output played in the  
10.25 business's decision and the role of any human involvement;

10.26 (ii) any additional corroborating information or judgments that were used in addition to  
10.27 the automated decision system output in making the decision;

10.28 (iii) how the logic of the automated decision system, including its assumptions and  
10.29 limitations, was applied to the worker;

11.1 (iv) the key parameters or performance metrics that affected the output of the automated  
11.2 decision system with respect to the worker, and how those parameters applied to the worker;  
11.3 and

11.4 (v) the range of possible outputs and aggregate output statistics to help a worker  
11.5 understand how they compare to other workers;

11.6 (4) the name of the entity that created the automated decision system and the product  
11.7 name of the automated decision system; and

11.8 (5) a copy of any completed impact assessments of the automated decision system.

11.9 (b) An employer must respond to an access request no later than 14 calendar days from  
11.10 the date the employer received the request.

11.11 (c) A service provider, contractor, or vendor must provide full assistance to the employer  
11.12 in responding to a worker request for access, including any of that worker's input or output  
11.13 data in its possession, and any relevant information about the automated decision system.

11.14 **Sec. 6. [181.9926] RIGHT TO APPEAL.**

11.15 (a) An employer that uses an automated decision system to make an employment-related  
11.16 decision must provide the affected worker with a form, or a link to an electronic form, to  
11.17 appeal the decision.

11.18 (b) The appeal form provided to an affected worker must include:

11.19 (1) the option to request access to the data used as input to or as output from the  
11.20 automated decision system;

11.21 (2) the option to request access to any corroborating or supporting evidence provided  
11.22 by a human reviewer to verify output from the automated decision system;

11.23 (3) space for the worker's reason for an appeal and any evidence the worker has to support  
11.24 the appeal; and

11.25 (4) information on how the worker can designate an authorized representative who can  
11.26 also access the data.

11.27 (c) A worker must appeal the employment-related decision within 30 days of when the  
11.28 worker was notified under section 181.9925 of the use of the automated decision system.

11.29 (d) An employer must respond to a worker submitting an appeal form within five business  
11.30 days of receiving that form. To respond to an appeal, the employer must designate a human  
11.31 reviewer who:

- 12.1 (1) will objectively evaluate all evidence;
- 12.2 (2) has sufficient authority, discretion, and resources to evaluate the decision, including
- 12.3 education about the limitations and biases of automated decision systems and training on
- 12.4 workers' rights under sections 181.9921 to 181.9927;
- 12.5 (3) has the authority to overturn the employer's decision; and
- 12.6 (4) was not involved in making the decision that the worker is appealing.
- 12.7 (e) After reviewing the evidence, the human reviewer must produce a clear, written
- 12.8 document describing the result of the appeal and the reasons for that result. This document
- 12.9 must be provided to both the employer and the worker.
- 12.10 (f) If the human reviewer determines that the employment-related decision should be
- 12.11 overturned, the employer must rectify the decision within five business days of receiving
- 12.12 the decision.

12.13 **Sec. 7. [181.9927] ENFORCEMENT.**

12.14 Subdivision 1. **Retaliation.** An employer must not discharge, threaten to discharge,

12.15 demote, suspend, or in any manner discriminate or retaliate against any worker for using

12.16 or attempting to use their rights under this section and sections 181.9921 to 181.9926,

12.17 including, but not limited to, filing a complaint with the commissioner of labor and industry,

12.18 alleging a violation, cooperating in an investigation or prosecution of an alleged violation,

12.19 taking any action to invoke or assist in enforcing these rights, or exercising or attempting

12.20 to exercise any of these rights.

12.21 Subd. 2. **Enforcement.** (a) The commissioner of labor and industry must enforce this

12.22 section and sections 181.9921 to 181.9926, including investigating alleged violations,

12.23 ordering appropriate temporary relief to mitigate a violation or maintain the status quo

12.24 pending the completion of a full investigation or hearing, issuing citations against employers,

12.25 and filing civil actions.

12.26 (b) An employer who violates this section or sections 181.9921 to 181.9926 may be

12.27 liable to the plaintiff in a civil action for any and all damages recoverable at law, including

12.28 punitive damages, such injunctive and other equitable relief as determined by the court,

12.29 civil penalties as provided in subdivision 3, together with costs and disbursements, including

12.30 reasonable attorney fees.

12.31 (c) A civil action under this section may be brought in a district court of competent

12.32 jurisdiction by:

13.1 (1) the commissioner of labor and industry;

13.2 (2) the attorney general under section 8.31; or

13.3 (3) a worker aggrieved by the violation, or the worker's exclusive representative.

13.4 Subd. 3. **Civil penalties.** (a) An employer who violates section 181.9922 or section  
13.5 181.9925 is subject to a civil penalty of \$1,000 per violation and each day a worker is  
13.6 affected constitutes a separate violation.

13.7 (b) An employer who violates section 181.9923, 181.9924, or 181.9926 is subject to a  
13.8 civil penalty of \$2,500 per violation. Each day a worker is affected constitutes a separate  
13.9 violation and under section 181.9924 each use of an automated decision system constitutes  
13.10 a separate violation.

13.11 Subd. 4. **Joint and several liability.** Each employer and labor contractor or vendor  
13.12 engaged by an employer to provide services is jointly and severally liable for any violation  
13.13 of this section or sections 181.9921 to 181.9926.

13.14 Subd. 5. **Preemption.** This section does not preempt any city, county, or city and county  
13.15 ordinance that provides equal or greater protection to workers who are covered by this  
13.16 section and sections 181.9921 to 181.9926.

13.17 Subd. 6. **Severability.** The provisions of this section and sections 181.9921 to 181.9926  
13.18 are severable. If any provision or its application is held invalid, that invalidity does not  
13.19 affect other provisions or applications that can be given effect without the invalid provision  
13.20 or application.

13.21 Subd. 7. **Model notice.** The commissioner of labor and industry must create and publish  
13.22 model language that employers may use for the notices required under sections 181.9922  
13.23 and 181.9925.