

119TH CONGRESS  
2D SESSION

# S. 4833

To prohibit certain uses of automated decision systems by employers, and  
for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 18, 2026

Mr. MARKEY (for himself, Mr. SCHATZ, Mr. SANDERS, Ms. BALDWIN, Ms. WARREN, Mr. BLUMENTHAL, and Mr. FETTERMAN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To prohibit certain uses of automated decision systems by  
employers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “No Robot Bosses Act”.

5 **SEC. 2. DEFINITIONS.**

6 For purposes of this Act:

7 (1) **ADVERSE WORK ACTION.**—The term “ad-  
8 verse work action”, with respect to a covered indi-  
9 vidual, means a change by the employer of the cov-

1       ered individual in the compensation, terms, condi-  
2       tions, or privileges of the job of the covered indi-  
3       vidual that puts the covered individual in a materi-  
4       ally adverse position than prior to the change, in-  
5       cluding a termination, reduction in benefits, discipli-  
6       nary action, demotion, transfer, imposition of a work  
7       schedule more burdensome to the covered individual,  
8       reduction of scheduled hours, adjustment in the abil-  
9       ity for a promotion, or other modifications to the  
10      compensation, terms, conditions, or privileges of the  
11      job of the covered individual.

12           (2) APPLICANT.—The term “applicant”, with  
13      respect to an employer, means an individual who ap-  
14      plies, or applied, to be employed by, or otherwise  
15      perform work for remuneration for, the employer.

16           (3) AUTOMATED DECISION SYSTEM.—

17           (A) IN GENERAL.—The term “automated  
18      decision system” means any system, software,  
19      or process (including one derived from machine  
20      learning, statistics, or other data processing or  
21      artificial intelligence techniques and excluding  
22      passive computing infrastructure) that uses  
23      computation to produce a prediction, score,  
24      ranking, recommendation, decision, evaluation,  
25      metric, conclusion, inference, or profile.

1 (B) PASSIVE COMPUTING INFRASTRUC-  
2 TURE.—For purposes of this paragraph, the  
3 term “passive computing infrastructure” means  
4 any intermediary technology that does not influ-  
5 ence or determine the outcome of a decision,  
6 make or aid in a decision (including through  
7 evaluations, metrics, or scoring), inform policy  
8 implementation, or collect data or observations,  
9 including web hosting, domain registration, net-  
10 working, caching, data storage, or cybersecu-  
11 rity.

12 (4) COVERED INDIVIDUAL.—The term “covered  
13 individual”, with respect to an employer, means an  
14 individual—

15 (A) who is employed by, or otherwise per-  
16 forms work for remuneration for, the employer,  
17 including such an individual who is—

18 (i) any individual performing work for  
19 remuneration for an employer described in  
20 clauses (i)(I) and (ii) of paragraph (9)(A);

21 (ii) any individual performing work  
22 for remuneration for an entity described in  
23 clauses (i)(II) and (ii) of paragraph (9)(A);

24 (iii) any individual performing work  
25 for remuneration for an employing office

1 described in clauses (i)(III) and (ii) of  
2 paragraph (9)(A);

3 (iv) any individual performing work  
4 for remuneration for an employing office  
5 described in clauses (i)(IV) and (ii) of  
6 paragraph (9)(A); or

7 (v) any individual performing work for  
8 remuneration for an employing agency de-  
9 scribed in clauses (i)(V) and (ii) of para-  
10 graph (9)(A) who is not covered under  
11 clause (iv); or

12 (B) who is an applicant with respect to the  
13 employer.

14 (5) DEVELOPER.—

15 (A) IN GENERAL.—Except as provided in  
16 subparagraph (B), the term “developer”, with  
17 respect to an automated decision system that is  
18 intended or reasonably likely to be used by an  
19 employer to make a work-related decision,  
20 means any person that designs, codes, cus-  
21 tomizes, produces, or substantially modifies the  
22 automated decision system, including such a  
23 person that is the employer.

24 (B) ASSUMPTION OF RESPONSIBILITY BY  
25 EMPLOYER.—If an employer assumes the re-

1           sponsibility of a person that would otherwise be  
2           a developer of an automated decision system as  
3           described in section 5(b)(2)(B), the person shall  
4           not be considered a developer for purposes of  
5           the use by the employer of the automated deci-  
6           sion system and the employer shall be consid-  
7           ered a developer for such purposes.

8           (C) RULE OF CONSTRUCTION.—Subpara-  
9           graph (A) or (B) shall not be interpreted to  
10          mean that an employer may not also be a devel-  
11          oper described in such subparagraph or that  
12          such a developer may not also be an employer.

13          (6) DIRECTOR.—The term “Director” means  
14          the Director of the Fairness and Transparency Of-  
15          fice established under section 6.

16          (7) DISPARATE IMPACT.—

17                (A) IN GENERAL.—The term “disparate  
18                impact” means an unjustified differential effect  
19                on an individual or group of individuals on the  
20                basis of an actual or perceived protected char-  
21                acteristic.

22                (B) UNJUSTIFIED DIFFERENTIAL EF-  
23                FECT.—For purposes of subparagraph (A), with  
24                respect to the action, policy, or practice of an  
25                employer, a differential effect is unjustified if—

1 (i) the developer or employer fails to  
2 demonstrate that such action, policy, or  
3 practice causing the differential effect is  
4 necessary to achieve a substantial, legiti-  
5 mate, and nondiscriminatory interest; or

6 (ii) in the event the employer dem-  
7 onstrates such interest, an alternative ac-  
8 tion, policy, or practice could serve such in-  
9 terest with less differential effect.

10 (C) APPLICATION TO AUTOMATED DECI-  
11 SION SYSTEM.—With respect to demonstrating  
12 that an automated decision system causes or  
13 contributes to a differential effect, the auto-  
14 mated decision system is presumed to be not  
15 separable for analysis and may be analyzed ho-  
16 listically as a single action, policy, or practice,  
17 unless the developer or employer proves that  
18 the automated decision system is separable by  
19 a preponderance of the evidence.

20 (8) EGREGIOUS MISCONDUCT.—The term  
21 “egregious misconduct”, with respect to a covered  
22 individual, means deliberate or grossly negligent con-  
23 duct that endangers the safety or well-being of the  
24 covered individual, co-workers of the covered indi-  
25 vidual, customers, or other persons, including dis-

1       crimination against or harassment of co-workers,  
2       customers, or other persons.

3           (9) EMPLOYER.—

4           (A) IN GENERAL.—The term “employer”  
5       means any person who is—

6           (i)(I) a covered employer who is not  
7       described in any other subclause of this  
8       clause;

9           (II) an entity employing a State em-  
10      ployee described in section 304(a) of the  
11      Government Employee Rights Act of 1991  
12      (42 U.S.C. 2000e–16e(a));

13          (III) an employing office, as defined  
14      in section 101 of the Congressional Ac-  
15      countability Act of 1995 (2 U.S.C. 1301);

16          (IV) an employing office, as defined in  
17      section 411(c) of title 3, United States  
18      Code; or

19          (V) an employing agency covered  
20      under subchapter V of chapter 63 of title  
21      5, United States Code; and

22          (ii) engaged in commerce (including  
23      government), or an industry or activity af-  
24      fecting commerce (including government).

1 (B) COVERED EMPLOYER.—In subpara-  
2 graph (A), the term “covered employer”—

3 (i) means any person engaged in com-  
4 merce or in any industry or activity affect-  
5 ing commerce who employs, or otherwise  
6 engages for the performance of work for  
7 remuneration, 11 or more covered individ-  
8 uals;

9 (ii) includes—

10 (I) any person who acts, directly  
11 or indirectly, in the interest of a cov-  
12 ered employer in relation to any indi-  
13 vidual performing work for remunera-  
14 tion for such covered employer;

15 (II) any successor in interest of a  
16 covered employer;

17 (III) any public agency; and

18 (IV) the Government Account-  
19 ability Office and the Library of Con-  
20 gress; and

21 (iii) does not include any labor organi-  
22 zation or worker advocacy organization  
23 (other than when a labor organization or  
24 worker advocacy organization is acting as  
25 an employer) or anyone acting in the ca-

1           capacity of officer or agent of such labor or-  
2           organization or worker advocacy organiza-  
3           tion.

4           (C) PUBLIC AGENCY.—For purposes of  
5           this paragraph, a public agency shall be consid-  
6           ered to be a person engaged in commerce or in  
7           an industry or activity affecting commerce.

8           (D) DEFINITIONS.—For purposes of this  
9           paragraph, the terms “commerce”, “person”,  
10          and “public agency” have the meanings given  
11          the terms in section 3 of the Fair Labor Stand-  
12          ards Act of 1938 (29 U.S.C. 203).

13          (10) GOVERNMENT ENTITY.—The term “gov-  
14          ernment entity” means—

15                (A) a Federal agency (as such term is de-  
16                fined in section 3371 of title 5, United States  
17                Code);

18                (B) a State or political subdivision thereof;

19                (C) any agency, authority, or instrumen-  
20                tality of a State or political subdivision thereof;  
21                or

22                (D) a Tribal government or political sub-  
23                division thereof.

24          (11) INDIAN TRIBE.—The term “Indian Tribe”  
25          means any Indian or Alaska Native tribe, band, na-

1 tion, pueblo, village, community, component band, or  
2 component reservation individually identified (includ-  
3 ing parenthetically) in the list published most re-  
4 cently as of the date of enactment of this Act pursu-  
5 ant to section 104 of the Federally Recognized In-  
6 dian Tribe List Act of 1994 (25 U.S.C. 5131).

7 (12) LABOR ORGANIZATION.—The term “labor  
8 organization” has the meaning given the term in  
9 section 2(5) of the National Labor Relations Act (29  
10 U.S.C. 152(5)), except that such term shall also in-  
11 clude—

12 (A) any organization composed of labor or-  
13 ganizations, such as a labor union federation or  
14 a State or municipal labor body; and

15 (B) any organization which would be in-  
16 cluded in the definition for such term under  
17 such section 2(5) but for the fact that the orga-  
18 nization represents—

19 (i) individuals employed by the United  
20 States, any wholly owned Government cor-  
21 poration, any Federal Reserve Bank, or  
22 any State or political subdivision thereof;

23 (ii) individuals employed by persons  
24 subject to the Railway Labor Act (45  
25 U.S.C. 151 et seq.); or

1 (iii) individuals employed as agricul-  
2 tural laborers.

3 (13) PERSONAL DATA.—The term “personal  
4 data”—

5 (A) means information that identifies or is  
6 linked or reasonably linkable, alone or in com-  
7 bination with other information, to an indi-  
8 vidual or an individual’s device; and

9 (B) includes derived data and unique per-  
10 sistent identifiers.

11 (14) PREDISPUTE ARBITRATION AGREEMENT.—  
12 The term “predispute arbitration agreement” means  
13 any agreement to arbitrate a dispute that has not  
14 yet arisen at the time of the making of the agree-  
15 ment.

16 (15) PREDISPUTE JOINT-ACTION WAIVER.—The  
17 term “predispute joint-action waiver” means an  
18 agreement, whether or not part of a predispute arbi-  
19 tration agreement, that would prohibit, or waive the  
20 right of, one of the parties to the agreement to par-  
21 ticipate in a joint, class, or collective action in a ju-  
22 dicial, arbitral, administrative, or other forum, con-  
23 cerning a dispute that has not yet arisen at the time  
24 of the making of the agreement.

1           (16) PROTECTED CHARACTERISTIC.—The term  
2           “protected characteristic” means any of the fol-  
3           lowing actual or perceived traits of an individual or  
4           group of individuals:

5                   (A) Race.

6                   (B) Color.

7                   (C) Ethnicity.

8                   (D) National origin, nationality, or immi-  
9                   gration status.

10                  (E) Religion.

11                  (F) Sex (including a sex stereotype, preg-  
12                  nancy, childbirth, or a related medical condi-  
13                  tion, sexual orientation or gender identity, and  
14                  sex characteristics, including intersex traits).

15                  (G) Disability.

16                  (H) Limited English proficiency.

17                  (I) Biometric information.

18                  (J) Familial or marital status.

19                  (K) Source of income.

20                  (L) Income level (not including the ability  
21                  to pay for a specific good or service being of-  
22                  fered).

23                  (M) Age.

24                  (N) Veteran status.

1           (O) Genetic information or medical condi-  
2           tions.

3           (P) Any other classification protected by  
4           Federal law.

5           (17) SECRETARY.—The term “Secretary”  
6           means the Secretary of Labor.

7           (18) STATE.—The term “State” means each of  
8           the several States of the United States, the District  
9           of Columbia, or any territory or possession of the  
10          United States.

11          (19) STATE ATTORNEY GENERAL.—The term  
12          “State attorney general” means—

13               (A) with respect to a State, the attorney  
14               general or chief law enforcement officer of the  
15               State, or another official or agency designated  
16               by the State to bring civil actions on behalf of  
17               the State or the residents of the State; and

18               (B) with respect to a Tribal government,  
19               the attorney general or chief law enforcement  
20               officer of the Tribal government, or another of-  
21               ficial or agency designated by the Tribal gov-  
22               ernment to bring civil actions on behalf of the  
23               Tribal government or the Indian Tribe of the  
24               Tribal government.

1           (20) STATE PRIVACY REGULATOR.—The term  
2 “State privacy regulator” means—

3           (A) the chief consumer protection officer of  
4 a State; or

5           (B) a State consumer protection agency  
6 with expertise in data protection, including the  
7 California Privacy Protection Agency.

8           (21) TRIBAL GOVERNMENT.—The term “Tribal  
9 government” means the recognized governing body  
10 of an Indian Tribe.

11           (22) WORK-RELATED DECISION.—The term  
12 “work-related decision” includes a decision by an  
13 employer with regard to—

14           (A) hiring or engaging a covered individual  
15 (including any decision with regard to recruit-  
16 ing, screening, interviewing, reviewing, or se-  
17 lecting an applicant);

18           (B) firing, retaining, taking a disciplinary  
19 action against, demoting, deactivating, or reas-  
20 signing duties of a covered individual; or

21           (C) any other term, condition, or privilege  
22 of employment or other work of the covered in-  
23 dividual, such as relating to wages, wage set-  
24 ting, work hours, scheduling, attendance re-  
25 quirements, workload, performance standards,

1 assignment of work, access to work and train-  
2 ing opportunities, productivity requirements,  
3 promotion, workplace health and safety, health  
4 care or long-term care coverage, or other bene-  
5 fits.

6 **SEC. 3. USE OF AN AUTOMATED DECISION SYSTEM BY AN**  
7 **EMPLOYER.**

8 (a) WORK-RELATED DECISIONS.—

9 (1) IN GENERAL.—An employer—

10 (A) may not rely predominantly on an  
11 automated decision system in making a work-  
12 related decision with respect to a covered indi-  
13 vidual; and

14 (B) may not use an automated decision  
15 system in a manner that would—

16 (i) prevent compliance with, or result  
17 in a violation of, any Federal, State, or  
18 local labor, occupational safety and health,  
19 employment, or civil rights law, including  
20 regulation;

21 (ii) prevent compliance with any right  
22 of a covered individual to reasonable ac-  
23 commodations or nondiscrimination as re-  
24 quired by Federal, State, or local law; or

1 (iii) prevent or discourage a covered  
2 individual from exercising any right under  
3 the National Labor Relations Act (29  
4 U.S.C. 151 et seq.) or any similar rights  
5 under any other Federal, State, or local  
6 law.

7 (2) DISCLOSURES.—

8 (A) IN GENERAL.—An employer that uses  
9 or intends to use an automated decision system  
10 in making a work-related decision with respect  
11 to a covered individual shall, in accordance with  
12 subparagraph (B), disclose to such covered indi-  
13 vidual—

14 (i) that the employer uses or intends  
15 to use an automated decision system in  
16 making such a work-related decision;

17 (ii) a description and explanation of  
18 the automated decision system, including—

19 (I) the types of data collected or  
20 intended to be collected as inputs to  
21 the automated decision system and  
22 the circumstances of such collection;

23 (II) the characteristics that the  
24 automated decision system measures  
25 or is intended to measure, such as the

1 knowledge, skills, or abilities of the  
2 covered individual;

3 (III) how such characteristics re-  
4 late or would relate to any function  
5 required for the work or potential  
6 work of the covered individual;

7 (IV) how the system measures or  
8 is intended to measure such charac-  
9 teristics;

10 (V) any performance standards  
11 or metrics used as inputs or produced  
12 as outputs of the automated decision  
13 system; and

14 (VI) how the covered individual  
15 can interpret the output of such auto-  
16 mated decision system in plain lan-  
17 guage;

18 (iii) the identity of the individual or  
19 entity that operates the automated decision  
20 system;

21 (iv) how the employer uses or intends  
22 to use such an automated decision system  
23 in making such a work-related decision;

24 (v) how the covered individual may  
25 dispute or appeal a work-related decision

1 made with respect to the covered individual  
2 using an automated decision system; and

3 (vi) the trade name of the automated  
4 decision system.

5 (B) TIMING OF DISCLOSURES.—

6 (i) DISCLOSURES WITH REGARD TO  
7 HIRING AND PROCESSING APPLICATIONS.—

8 (I) IN GENERAL.—An employer  
9 shall provide a disclosure required  
10 under subparagraph (A) to the cov-  
11 ered individual—

12 (aa) in the case of a covered  
13 individual for whom a work-re-  
14 lated decision with regard to the  
15 hiring of the covered individual—

16 (AA) was made on or  
17 after the date that is 5 years  
18 prior to the date of enact-  
19 ment of this Act, but before  
20 such date of enactment, not  
21 later than 30 days after  
22 such date of enactment; or

23 (BB) except as pro-  
24 vided in item (bb), is made  
25 on or after the date of en-

1 actment of this Act, prior to  
2 making such work-related  
3 decision; and

4 (bb) in the case of an appli-  
5 cant who applies to the employer  
6 on or after the date of enactment  
7 of this Act, prior to processing  
8 an application by the applicant to  
9 be employed by, or otherwise per-  
10 form work for remuneration for,  
11 the employer.

12 (II) EMPLOYERS NEEDING IN-  
13 FORMATION FOR PRIOR WORK-RE-  
14 LATED DECISIONS.—With respect to a  
15 disclosure described in subclause  
16 (I)(aa)(AA), in the case of an em-  
17 ployer that did not maintain, prior to  
18 the date of enactment of this Act, all  
19 of the information described in sub-  
20 paragraph (A) required for such a dis-  
21 closure, the employer shall—

22 (aa) provide the disclosure  
23 in accordance with this para-  
24 graph with respect to as much  
25 information described in subpara-

1 graph (A) as the employer did  
2 maintain; and

3 (bb) inform the covered indi-  
4 vidual in accordance with such  
5 subclause that the employer did  
6 not maintain records of the other  
7 information required under such  
8 subparagraph.

9 (ii) OTHER DISCLOSURES.—

10 (I) IN GENERAL.—With respect  
11 to any work-related decision not de-  
12 scribed in clause (i) that is made on  
13 or after the date of enactment of this  
14 Act, an employer shall provide the dis-  
15 closure required under subparagraph  
16 (A) prior to making such work-related  
17 decision.

18 (II) ADVERSE WORK ACTIONS.—

19 Notwithstanding subclause (I), in the  
20 case the work-related decision de-  
21 scribed in such subclause is for an ad-  
22 verse work action against the covered  
23 individual, the disclosure described in  
24 such subclause shall be required at

1 least 7 days prior to taking the ad-  
2 verse work action.

3 (iii) UPDATED DISCLOSURES.—With  
4 respect to a covered individual for whom  
5 an employer provided a disclosure under  
6 subparagraph (A), the employer shall pro-  
7 vide the covered individual with an updated  
8 disclosure—

9 (I) not less than 7 days before  
10 implementing changes to practices  
11 disclosed under clause (ii) or (iv) of  
12 subparagraph (A); or

13 (II) immediately upon significant  
14 new information required to be pro-  
15 vided in such a disclosure becoming  
16 available.

17 (C) EXCEPTIONS.—

18 (i) IN GENERAL.—Notwithstanding  
19 any provision in this paragraph, no disclo-  
20 sure is required under this paragraph for  
21 any work-related decision made prior to  
22 the date of enactment of this Act, except  
23 for such a decision with regard to the hir-  
24 ing of a covered individual that is made  
25 not prior to the date that is 5 years before

1 the date of enactment of this Act as de-  
2 scribed in subparagraph (B)(i)(I)(aa)(AA).

3 (ii) EGREGIOUS MISCONDUCT.—Not-  
4 withstanding any provision in this para-  
5 graph, in the case a covered individual en-  
6 gages in egregious misconduct, an em-  
7 ployer may issue a disclosure under this  
8 paragraph for a work-related decision  
9 made by the employer with respect to such  
10 egregious misconduct after the employer  
11 makes such work-related decision.

12 (3) TRAINING.—An employer that uses or in-  
13 tends to use an automated decision system in mak-  
14 ing a work-related decision with respect to a covered  
15 individual shall train any individual or entity that  
16 operates the automated decision system on the use  
17 of such system, including on—

18 (A) the input information used by such  
19 automated decision system;

20 (B) the appeals process for the output of  
21 such an automated decision system;

22 (C) potential biases in automated decision  
23 systems;

24 (D) any limitations of the automated deci-  
25 sion system, including intended use cases,

1 known performance issues outside of those use  
2 cases, and proper interpretation of outputs;

3 (E) any potential adverse effects to covered  
4 individuals due to the automated decision sys-  
5 tem;

6 (F) any potential errors or problems re-  
7 lated to the automated decision system; and

8 (G) examples of inappropriate uses of the  
9 automated decision system, such as misinter-  
10 pretation of outputs or exclusive reliance on  
11 outputs to make a decision.

12 (b) MANAGEMENT BY AN AUTOMATED DECISION  
13 SYSTEM.—An employer that manages a covered individual  
14 through an automated decision system shall enable the  
15 covered individual to opt out of such management and in-  
16 stead be managed through a human manager who is able  
17 to make work-related decisions with respect to the covered  
18 individual.

19 (c) APPLICANT OPT OUT.—An employer shall enable  
20 applicants to opt out of having application materials  
21 screened, reviewed, or processed by an automated decision  
22 system and instead be screened, reviewed, or processed by  
23 a human, including in cases in which the employer engages  
24 a third party to screen, review, or process application ma-  
25 terials.

1 **SEC. 4. PREDEPLOYMENT EVALUATIONS AND POST-DE-**  
2 **PLOYMENT IMPACT ASSESSMENTS.**

3 (a) PREDEPLOYMENT EVALUATIONS.—

4 (1) FOR DEVELOPERS.—Before a developer de-  
5 ploys, licenses, or offers an automated decision sys-  
6 tem (including deploying a material change to a pre-  
7 viously deployed automated decision system or a ma-  
8 terial change made prior to deployment) that is in-  
9 tended or reasonably likely to be used to make a  
10 work-related decision, the developer of the auto-  
11 mated decision system shall conduct a  
12 predeployment evaluation that—

13 (A) includes a detailed review of the auto-  
14 mated decision system; and

15 (B) results in a report, sufficient for an in-  
16 dividual having ordinary skill in the art to un-  
17 derstand the functioning, risks, uses, benefits,  
18 limitations, and other pertinent attributes of  
19 the automated decision system, that includes—

20 (i) a description of the automated de-  
21 cision system’s design and methodology,  
22 including the inputs the automated deci-  
23 sion system is designed to use to produce  
24 an output and the outputs the automated  
25 decision system is designed to produce for  
26 purposes of specific work-related decisions;

1 (ii) a description of how the auto-  
2 mated decision system was created and  
3 tested, including—

4 (I) any metric used to test the  
5 performance of the automated deci-  
6 sion system;

7 (II) defined benchmarks and  
8 goals that correspond to such metrics,  
9 including whether there was sufficient  
10 representation of demographic groups  
11 that are reasonably likely to use or be  
12 affected by the automated decision  
13 system in the data used to create or  
14 train the automated decision system,  
15 and whether there was reasonable  
16 testing, if any, across such demo-  
17 graphic groups;

18 (III) the outputs the automated  
19 decision system actually produces in  
20 testing;

21 (IV) a description of any con-  
22 sultation with relevant stakeholders,  
23 including covered individuals that will  
24 be impacted by the automated deci-  
25 sion system, regarding the develop-

1           ment of the automated decision sys-  
2           tem or a disclosure that no such con-  
3           sultation occurred;

4                   (V) any computational algorithm  
5           incorporated into the development of  
6           the automated decision system and a  
7           description of the training process for  
8           such algorithm including the training,  
9           validation, and test data used to con-  
10          firm the intended outputs; and

11                   (VI) a description of the data  
12          and information used to develop, test,  
13          maintain, or update the automated  
14          decision system, including—

15                   (aa) each type of personal  
16           data used, each source from  
17           which the personal data was col-  
18           lected, and how each type of per-  
19           sonal data was inferred and proc-  
20           essed;

21                   (bb) the legal authorization  
22           for collecting and processing the  
23           personal data; and

24                   (cc) an explanation of how  
25           the data (including personal

1 data) used is representative, pro-  
2 portional, and appropriate to the  
3 development and intended uses of  
4 the automated decision system;

5 (iii) a description of—

6 (I) the potential for the auto-  
7 mated decision system to pose risks to  
8 worker rights, including with respect  
9 to the privacy, physical and mental  
10 health and safety, dignity, and auton-  
11 omy of workers or to result in the  
12 chilling of legally protected activity  
13 (including organizing and collective  
14 bargaining); and

15 (II) any potential economic im-  
16 pact of the automated decision system  
17 on workers, such as with respect to  
18 wages, hours, schedules, benefits,  
19 skills training, work opportunities,  
20 and advancement;

21 (iv) a description of the potential for  
22 the automated decision system to discrimi-  
23 nate, including by having a disparate im-  
24 pact on the equal enjoyment of goods, serv-  
25 ices, or other activities or opportunities,

1 and a description of such discrimination;

2 and

3 (v) a description of alternative prac-  
4 tices and recommendations to prevent or  
5 mitigate risks to workers rights and rec-  
6 ommendations for how the developer could  
7 monitor for risks to workers rights after  
8 offering, licensing, or deploying the auto-  
9 mated decision system.

10 (2) FOR EMPLOYERS.—Before an employer de-  
11 ploys an automated decision system (including de-  
12 ploying a material change to a previously deployed  
13 automated decision system or a material change  
14 made prior to deployment) that is intended or rea-  
15 sonably likely to be used to make a work-related de-  
16 cision, the employer shall conduct a predeployment  
17 evaluation that—

18 (A) includes a detailed review of the auto-  
19 mated decision system; and

20 (B) results in a report, sufficient for an in-  
21 dividual having ordinary skill in the art to un-  
22 derstand the functioning, risks, uses, benefits,  
23 limitations, and other pertinent attributes of  
24 the automated decision system, that includes—

1 (i) a description of the manner in  
2 which the automated decision system may  
3 be used to make or contribute to a work-  
4 related decision and the purpose for which  
5 the automated decision system will be de-  
6 ployed;

7 (ii) a description of the necessity and  
8 proportionality of the automated decision  
9 system in relation to its planned use, in-  
10 cluding the intended benefits and limita-  
11 tions of the automated decision system and  
12 a description of the baseline process being  
13 enhanced or replaced by the automated de-  
14 cision system, if applicable;

15 (iii) a description of the inputs to the  
16 automated decision system that the em-  
17 ployer plans to use to produce an output,  
18 including—

19 (I) the type of personal data and  
20 information used and how the per-  
21 sonal data and information will be col-  
22 lected, inferred, and processed;

23 (II) the legal authorization for  
24 collecting and processing the personal  
25 data; and

1 (III) an explanation of how the  
2 data used is representative, propor-  
3 tional, and appropriate to the deploy-  
4 ment of the automated decision sys-  
5 tem;

6 (iv) a description of the outputs the  
7 automated decision system is expected to  
8 produce and the outputs the automated de-  
9 cision system actually produces in testing;

10 (v) a description of any additional  
11 testing or training completed by the em-  
12 ployer for the context in which the auto-  
13 mated decision system will be deployed;

14 (vi) a description of any consultation  
15 with relevant stakeholders, including cov-  
16 ered individuals that will be impacted by  
17 the automated decision system, regarding  
18 the deployment of the automated decision  
19 system;

20 (vii) a description of—

21 (I) the potential for the auto-  
22 mated decision system to pose risks to  
23 worker rights, including with respect  
24 to the privacy, physical and mental  
25 health and safety, dignity, and auton-

- 1                   omy of workers or to result in the  
2                   chilling of legally protected activity  
3                   (including organizing and collective  
4                   bargaining); and
- 5                   (II) any potential economic im-  
6                   pact of the automated decision system  
7                   on workers, such as with respect to  
8                   wages, hours, schedules, benefits,  
9                   skills training, work opportunities,  
10                  and advancement;
- 11                  (viii) a description of the potential for  
12                  the automated decision system to discrimi-  
13                  nate, including by having a disparate im-  
14                  pact on the equal enjoyment of goods, serv-  
15                  ices, or other activities or opportunities,  
16                  and a description of such discrimination;  
17                  and
- 18                  (ix) a description of alternative prac-  
19                  tices and recommendations to prevent or  
20                  mitigate risks to workers rights and rec-  
21                  ommendations for how the employer could  
22                  monitor for risks to workers rights after  
23                  offering, licensing, or deploying the auto-  
24                  mated decision system.

1           (3) EFFECTIVE DATE.—The requirements for  
2       predeployment evaluations under paragraphs (1) and  
3       (2) shall only apply with respect to the deployment,  
4       licensing, or offering of any automated decision sys-  
5       tem that occurs on or after the date of enactment  
6       of this Act.

7           (b) EMPLOYER ANNUAL IMPACT ASSESSMENT.—An  
8       employer that deploys an automated decision system used  
9       to make a work-related decision in any year shall conduct  
10      an impact assessment of the automated decision system  
11      with respect to the use of such system in such year in  
12      accordance with the following:

13           (1) IMPACT ASSESSMENT.—The employer  
14      shall—

15           (A) conduct a full impact assessment on  
16      the automated decision system with respect to  
17      the year, including the information described in  
18      paragraph (2) as relevant; and

19           (B) prepare a report on such assessment,  
20      including—

21           (i) a description of the extent to which  
22      the automated system during the year in-  
23      fringed on the rights of any worker, includ-  
24      ing with respect to the privacy, physical  
25      and mental health and safety, dignity, and

1           autonomy of workers or to result in the  
2           chilling of legally protected activity (includ-  
3           ing organizing and collective bargaining),  
4           or had an economic impact on any worker,  
5           such as with respect to wages, hours,  
6           schedules, benefits, skills training, work  
7           opportunities, and advancement;

8           (ii) a description of the extent to  
9           which the automated decision system pro-  
10          duced a disparate impact in the equal en-  
11          joyment of goods, services, or other activi-  
12          ties or opportunities, including the method-  
13          ology for such evaluation, of how the auto-  
14          mated decision system produced or likely  
15          produced such disparity;

16          (iii) a description of the types of data  
17          input into the automated decision system  
18          during the reporting period to produce an  
19          output, including—

20                  (I) documentation of how data  
21                  input into the automated decision sys-  
22                  tem to produce an output is rep-  
23                  resented and complete descriptions of  
24                  each field of data; and

1 (II) whether and to what extent  
2 the data input into the automated de-  
3 cision system to produce an output  
4 was used to modify the automated de-  
5 cision system;

6 (iv) whether and to what extent the  
7 automated decision system produced the  
8 outputs it was expected to produce; and

9 (v) a detailed description of how the  
10 automated decision system was used to  
11 make a work-related decision.

12 (2) EMPLOYERS WITH A DEPLOYED AUTO-  
13 MATED DECISION SYSTEM.—An employer that de-  
14 ployed an automated decision system used to make  
15 a work-related decision before the date of enactment  
16 of this Act and has not otherwise conducted a  
17 predeployment evaluation under subsection (a) or a  
18 review under this paragraph with respect to the  
19 automated decision system shall—

20 (A) conduct a detailed review of the auto-  
21 mated decision system; and

22 (B) include in the first impact assessment  
23 of such automated decision system under para-  
24 graph (1) a report, sufficient for an individual  
25 having ordinary skill in the art to understand

1 the functioning, risks, uses, benefits, limita-  
2 tions, and other pertinent attributes of the  
3 automated decision system, that includes—

4 (i) a description of the manner in  
5 which the automated decision system may  
6 be used to make or contribute to a work-  
7 related decision and the purpose for which  
8 the automated decision system will be de-  
9 ployed;

10 (ii) a description of the necessity and  
11 proportionality of the automated decision  
12 system in relation to its planned use, in-  
13 cluding the intended benefits and limita-  
14 tions of the automated decision system and  
15 a description of the baseline process being  
16 enhanced or replaced by the automated de-  
17 cision system, if applicable; and

18 (iii) a description of the inputs to the  
19 automated decision system that the em-  
20 ployer plans to use to produce an output,  
21 including—

22 (I) the type of personal data and  
23 information used and how the per-  
24 sonal data and information will be col-  
25 lected, inferred, and processed;

1 (II) the legal authorization for  
2 collecting and processing the personal  
3 data; and

4 (III) an explanation of how the  
5 data used is representative, propor-  
6 tional, and appropriate to the deploy-  
7 ment of the automated decision sys-  
8 tem.

9 (3) REPORT.—Not later than 30 days after the  
10 completion of a report on an impact assessment  
11 under paragraph (1)(B), an employer shall submit to  
12 the developer of the automated decision system a  
13 summary of such report.

14 (c) DEVELOPER ANNUAL REVIEW OF ASSESS-  
15 MENTS.—A developer of an automated decision system  
16 used by an employer in any year to make a work-related  
17 decision shall review each impact assessment summary  
18 submitted by an employer under subsection (b)(3) with re-  
19 spect to such system in such year for the following:

20 (1) To assess how the employer is using the  
21 automated decision system, including the method-  
22 ology for assessing such use.

23 (2) To assess the type of data the employer is  
24 inputting into the automated decision system to

1 produce an output and the types of outputs the  
2 automated decision system is producing.

3 (3) To assess whether the employer is com-  
4 plying with any relevant contractual agreement with  
5 the developer and whether any remedial action is  
6 necessary.

7 (4) To compare the automated decision sys-  
8 tem's performance in real-world conditions versus  
9 any predeployment testing available, including the  
10 methodology used to evaluate such performance.

11 (5) To assess whether the automated decision  
12 system infringed on worker's rights or is reasonably  
13 likely to be infringing on worker's rights.

14 (6) To assess whether and, if so, how the auto-  
15 mated decision system is causing, or is reasonably  
16 likely to be causing, a disparate impact in the equal  
17 enjoyment of goods, services, or other activities or  
18 opportunities.

19 (7) To determine whether the automated deci-  
20 sion system needs modification.

21 (8) To determine whether any other action is  
22 appropriate to ensure that the automated decision  
23 system remains safe and effective.

24 (d) JOINT DEVELOPER AND EMPLOYER OBLIGA-  
25 TIONS.—If a person is both the developer of an automated

1 decision system and an employer deploying an automated  
2 decision system, the person may conduct combined  
3 predeployment evaluations and annual assessments, pro-  
4 vided that each combined evaluation or assessment satis-  
5 fies all requirements for both developers and employers.

6 (e) RELATIONSHIPS BETWEEN DEVELOPERS AND  
7 EMPLOYER.—The developer of an automated decision sys-  
8 tem shall, upon the reasonable request of an employer  
9 using the automated decision system, make available to  
10 the employer information necessary for the employer to  
11 demonstrate compliance with the requirements of this Act,  
12 including—

13 (1) making available to the employer a report  
14 on the predeployment evaluation required under sub-  
15 section (a) or the annual review of assessments con-  
16 ducted by the developer under subsection (c); and

17 (2) providing information necessary to enable  
18 the employer to conduct and document a  
19 predeployment evaluation under subsection (a) or an  
20 impact assessment under subsection (b).

21 (f) REPORTING AND RETENTION REQUIREMENTS.—

22 (1) REPORTING.—A developer or employer that  
23 conducts a predeployment evaluation, impact assess-  
24 ment, or developer annual review of assessments  
25 under this section shall—

1 (A) not later than 30 days after completion  
2 of such evaluation, assessment, or review, sub-  
3 mit the evaluation, assessment, or review to the  
4 Fairness and Transparency Office of the De-  
5 partment of Labor;

6 (B) upon request, make the completed  
7 evaluation, assessment, or review available to  
8 Congress; and

9 (C) not later than 30 days after such com-  
10 pletion—

11 (i) publish a summary of the evalua-  
12 tion, assessment, or review on the website  
13 of the developer or employer in a manner  
14 that is easily accessible to individuals; and

15 (ii) submit such summary to the Fair-  
16 ness and Transparency Office of the De-  
17 partment of Labor.

18 (2) RETENTION.—A developer or employer shall  
19 retain all evaluations, assessments, and reviews con-  
20 ducted under this section for a period of not fewer  
21 than 10 years after the completion of the evaluation,  
22 assessment, or review.

23 (3) TRADE SECRETS AND PRIVACY.—A devel-  
24 oper or employer—

1 (A) may redact and segregate any trade  
2 secret (as defined in section 1839 of title 18,  
3 United States Code) from public disclosure in  
4 the summary published and submitted under  
5 paragraph (1)(C); and

6 (B) shall redact and segregate personal  
7 data from public disclosure in such summary.

8 (g) RULEMAKING.—

9 (1) AUTHORITY.—The Director of the Fairness  
10 and Transparency Office of the Department of  
11 Labor may, in accordance with section 553 of title  
12 5, United States Code, promulgate such rules as  
13 may be necessary to carry out this section.

14 (2) ADDITIONAL REGULATIONS.—Not later  
15 than 2 years after the date of enactment of this Act,  
16 the Director of the Fairness and Transparency Of-  
17 fice shall—

18 (A) promulgate rules, pursuant to section  
19 553 of title 5, United States Code, specifying—

20 (i) what information and factors a de-  
21 veloper or employer shall consider in mak-  
22 ing the predeployment evaluation required  
23 under subsection (a);

24 (ii) what information a developer or  
25 employer shall include in a summary of an

1 evaluation, assessment, or review described  
2 in subsection (f)(1)(C); and

3 (iii) the extent to and process by  
4 which a developer may request additional  
5 information from a employer for purposes  
6 of the review under subsection (c), includ-  
7 ing the purposes for which a developer is  
8 permitted to use such additional informa-  
9 tion; and

10 (B) in promulgating such rules, consider  
11 the need to protect the privacy of personal data,  
12 as well as the need for information sharing by  
13 developers and employers to comply with this  
14 section and inform the public.

15 **SEC. 5. AUTOMATED DECISION SYSTEM STANDARDS.**

16 (a) **AUTOMATED DECISION SYSTEM USE.**—A devel-  
17 oper of an automated decision system that is intended or  
18 reasonably likely to be used to make a work-related deci-  
19 sion and each employer using such automated decision  
20 system shall—

21 (1) take reasonable measures to prevent and  
22 mitigate any risks to worker rights from the auto-  
23 mated decision system that are identified by a  
24 predeployment evaluation under section 4(a) or an  
25 impact assessment under section 4(b);

1           (2) consult stakeholders, including stakeholders  
2           representing any community that will be impacted  
3           by the automated decision system, regarding the de-  
4           velopment or deployment of the automated decision  
5           system; and

6           (3) certify to the Director before deploying, li-  
7           censing, or offering the automated decision system  
8           that, based on the results of the predeployment eval-  
9           uation under section 4(a) or an impact assessment  
10          under section 4(b), use of the automated decision  
11          system is not likely to result in—

12                 (A) risk to workers' rights, including with  
13                 respect to the privacy, physical and mental  
14                 health and safety, dignity, and autonomy of  
15                 workers; or

16                 (B) the chilling of legally protected activity  
17                 (including with respect to organizing and collec-  
18                 tive bargaining).

19          (b) OFF-LABEL USE.—

20                 (1) DEVELOPERS.—A developer of an auto-  
21                 mated decision system may not knowingly offer or li-  
22                 cense the automated decision system for use in pro-  
23                 ducing outputs for purposes of any work-related de-  
24                 cision other than those described in the  
25                 predeployment evaluation under section 4(a).

## 1 (2) EMPLOYERS.—

2 (A) IN GENERAL.—Except as provided in  
3 subparagraph (B), an employer may not know-  
4 ingly use an automated decision system to  
5 produce outputs for purposes of a work-related  
6 decision other than for purposes of a work-re-  
7 lated decision that is described in the  
8 predeployment evaluation under such section by  
9 the developer of the automated decision system.

## 10 (B) ASSUMPTION OF RESPONSIBILITY.—

11 An employer that intends to use an automated  
12 decision system to produce an output for pur-  
13 poses of a work-related decision that is not de-  
14 scribed in the predeployment evaluation under  
15 such section by the developer of the automated  
16 decision system shall assume the responsibilities  
17 of the developer required by this Act (other  
18 than with respect to conducting a review of as-  
19 sessments under section 4(c)) with respect to  
20 the use by the employer of the automated deci-  
21 sion system.

1 **SEC. 6. ESTABLISHMENT OF FAIRNESS AND TRANS-**  
2 **PARENCY OFFICE.**

3 (a) IN GENERAL.—There is established in the Wage  
4 and Hour Division of the Department of Labor the Fair-  
5 ness and Transparency Office.

6 (b) DIRECTOR.—The President shall appoint a Direc-  
7 tor of the Fairness and Transparency Office to head the  
8 Fairness and Transparency Office.

9 (c) EMPLOYEES AND ADVISORY BOARDS OF THE OF-  
10 FICE.—

11 (1) IN GENERAL.—The Director—

12 (A) may select, appoint, and employ, with-  
13 out regard to the provisions of sections 3309  
14 through 3318 of title 5, United States Code, in-  
15 dividuals, including technologists, directly to po-  
16 sitions in the competitive service, as defined in  
17 section 2102 of such title, to carry out the du-  
18 ties of the Director under this Act; and

19 (B) may fix the compensation of the indi-  
20 viduals described in subparagraph (A) without  
21 regard to chapter 51 and subchapter III of  
22 chapter 53 of title 5, United States Code, relat-  
23 ing to classification of positions and General  
24 Schedule pay rates, except that the rate of pay  
25 for such individuals may not exceed the rate

1 payable for level V of the Executive Schedule  
2 under section 5316 of that title.

3 (2) ADVISORY BOARDS.—

4 (A) ESTABLISHMENT.—The Director shall  
5 establish advisory boards to advise and consult  
6 with in the exercise of the functions of the Di-  
7 rector under this Act and to provide informa-  
8 tion on emerging practices relating to the treat-  
9 ment of data by employers that are the fol-  
10 lowing:

11 (i) The User Advisory Board, which  
12 shall be comprised of experts in consumer  
13 protection, privacy, civil rights, disability  
14 rights, labor organizations and worker ad-  
15 vocacy organizations, and ethics.

16 (ii) The Research Advisory Board,  
17 which shall be comprised of—

18 (I) individuals with academic and  
19 research expertise in privacy, cyberse-  
20 curity, computer science, innovation,  
21 design, ethics, economics, civil rights  
22 law, disability law, labor organizations  
23 and worker advocacy organizations,  
24 and public policy; and

1 (II) representatives of labor orga-  
2 nizations and worker advocacy organi-  
3 zations.

4 (iii) The Product Advisory Board,  
5 which shall be comprised of technologists,  
6 computer scientists, designers, product  
7 managers, attorneys, representatives of  
8 labor organizations and worker advocacy  
9 organizations, workplace technology ex-  
10 perts, accessibility experts, and other rep-  
11 resentatives of employers and workers.

12 (iv) The Labor Advisory Board, which  
13 shall be comprised of—

14 (I) representatives of labor orga-  
15 nizations and worker advocacy organi-  
16 zations; and

17 (II) representatives of workers.

18 (B) APPOINTMENTS.—The Director shall  
19 appoint members to the advisory boards estab-  
20 lished under subparagraph (A) without regard  
21 to party affiliation.

22 (C) MEETINGS.—Each advisory board es-  
23 tablished under subparagraph (A) shall meet—

24 (i) at the call of the Director; and

25 (ii) not less than 2 times annually.

1 (D) COMPENSATION AND TRAVEL EX-  
2 PENSES.—A member of an advisory board es-  
3 tablished under subparagraph (A) who is not an  
4 officer or employee of the Federal Government  
5 shall—

6 (i) be entitled to receive compensation  
7 at a rate fixed by the Director while at-  
8 tending meetings of the advisory board, in-  
9 cluding travel time; and

10 (ii) receive travel expenses, including  
11 per diem in lieu of subsistence, in accord-  
12 ance with applicable provisions under sub-  
13 chapter I of chapter 57 of title 5, United  
14 States Code.

15 (E) EXEMPTION FROM THE FEDERAL AD-  
16 VISORY COMMITTEE ACT.—Each advisory board  
17 established under subparagraph (A) shall be ex-  
18 empt from chapter 10 of title 5, United States  
19 Code.

20 (3) USE OF VOLUNTARY SERVICES.—The Direc-  
21 tor may, as may from time to time be needed, use  
22 any voluntary or uncompensated services.

23 (4) ATTORNEYS.—Attorneys appointed under  
24 this subsection may appear for and represent the Di-  
25 rector in any litigation.

1 (d) OFFICES.—

2 (1) IN GENERAL.—The principal office of the  
3 Fairness and Transparency Office shall be in the  
4 District of Columbia.

5 (2) REGIONAL, LOCAL, AND OTHER OFFICES.—  
6 The Director may establish regional, local, or other  
7 offices, including an office in the city of San Fran-  
8 cisco, California, or the San Francisco Bay area in  
9 California.

10 **SEC. 7. REGULATIONS.**

11 (a) IN GENERAL.—

12 (1) AUTHORITY.—

13 (A) IN GENERAL.—Except as provided in  
14 paragraph (2), the Secretary, acting through  
15 the Director, may prescribe such regulations as  
16 may be necessary to carry out this Act with re-  
17 spect to covered individuals described in section  
18 2(4)(A) (other than covered individuals de-  
19 scribed in clauses (iii) through (v) of such sec-  
20 tion) and other individuals affected by employ-  
21 ers described in subclause (I) or (II) of section  
22 2(9)(A)(i), including individuals who are cov-  
23 ered individuals described in section 2(4)(B)  
24 with respect to such employers.

1 (B) CONSULTATION.—In prescribing any  
2 regulations authorized under this paragraph,  
3 the Secretary, acting through the Director, may  
4 consult with—

5 (i) Federal agencies that have juris-  
6 diction over Federal privacy laws or exper-  
7 tise in privacy, including the Federal  
8 Trade Commission;

9 (ii) Federal agencies that have juris-  
10 diction over labor and employment issues,  
11 including the Equal Employment Oppor-  
12 tunity Commission, the National Science  
13 Foundation, and the National Labor Rela-  
14 tions Board; and

15 (iii) any other Federal agencies with  
16 relevant expertise, including the United  
17 States Access Board and the Office of  
18 Science and Technology Policy.

19 (2) GOVERNMENT ACCOUNTABILITY OFFICE; LI-  
20 BRARY OF CONGRESS.—The Comptroller General of  
21 the United States and the Librarian of Congress  
22 shall prescribe any regulations described in para-  
23 graph (1)(A) with respect to covered individuals of  
24 the Government Accountability Office and the Li-  
25 brary of Congress, respectively, and other individuals

1 affected by the Comptroller General of the United  
2 States and the Librarian of Congress, respectively.

3 (b) INDIVIDUALS COVERED BY CONGRESSIONAL AC-  
4 COUNTABILITY ACT OF 1995.—

5 (1) AUTHORITY.—Not later than 45 days after  
6 the Secretary prescribes any regulation under sub-  
7 section (a)(1)(A), the Board of Directors of the Of-  
8 fice of Compliance shall prescribe (in accordance  
9 with section 304 of the Congressional Accountability  
10 Act of 1995 (2 U.S.C. 1384)) such regulations as  
11 may be necessary to carry out this Act with respect  
12 to covered individuals described in section  
13 2(4)(A)(iii) and other individuals affected by em-  
14 ployers described in section 2(9)(A)(i)(III), including  
15 individuals who are covered individuals described in  
16 section 2(4)(B) with respect to such employers.

17 (2) AGENCY REGULATIONS.—The regulations  
18 prescribed under paragraph (1) shall be the same as  
19 substantive regulations promulgated by the Sec-  
20 retary under subsection (a)(1)(A) except insofar as  
21 the Board may determine, for good cause shown and  
22 stated together with the regulations prescribed  
23 under paragraph (1), that a modification of such  
24 regulations would be more effective for the imple-

1       mentation of the rights and protections involved  
2       under this section.

3       (c) INDIVIDUALS COVERED BY CHAPTER 5 OF TITLE  
4 3, UNITED STATES CODE.—

5           (1) AUTHORITY.—Not later than 45 days after  
6       the Secretary prescribes any regulation under sub-  
7       section (a)(1)(A), the President (or the designee of  
8       the President) shall prescribe such regulations as  
9       may be necessary to carry out this Act with respect  
10      to covered individuals described in section  
11      2(4)(A)(iv) and other individuals affected by employ-  
12      ers described in section 2(9)(A)(i)(IV), including in-  
13      dividuals who are covered individuals described in  
14      section 2(4)(B) with respect to such employers.

15          (2) AGENCY REGULATIONS.—The regulations  
16      prescribed under paragraph (1) shall be the same as  
17      substantive regulations promulgated by the Sec-  
18      retary under subsection (a)(1)(A) except insofar as  
19      the President (or designee) may determine, for good  
20      cause shown and stated together with the regula-  
21      tions prescribed under paragraph (1), that a modi-  
22      fication of such regulations would be more effective  
23      for the implementation of the rights and protections  
24      involved under this section.

1 (d) INDIVIDUALS COVERED BY CHAPTER 63 OF  
2 TITLE 5, UNITED STATES CODE.—

3 (1) AUTHORITY.—Not later than 45 days after  
4 the Secretary prescribes any regulation under sub-  
5 section (a)(1)(A), the Director of the Office of Per-  
6 sonnel Management shall prescribe such regulations  
7 as may be necessary to carry out this Act with re-  
8 spect to covered individuals described in section  
9 2(4)(A)(v) and other individuals affected by employ-  
10 ers described in section 2(9)(A)(i)(V), including indi-  
11 viduals who are covered individuals described in sec-  
12 tion 2(4)(B) with respect to such employers.

13 (2) AGENCY REGULATIONS.—The regulations  
14 prescribed under paragraph (1) shall be the same as  
15 substantive regulations promulgated by the Sec-  
16 retary under subsection (a)(1)(A) except insofar as  
17 the Director may determine, for good cause shown  
18 and stated together with the regulations prescribed  
19 under paragraph (1), that a modification of such  
20 regulations would be more effective for the imple-  
21 mentation of the rights and protections involved  
22 under this section.

1 **SEC. 8. WHISTLEBLOWER PROTECTIONS.**

2 An employer may not discriminate or retaliate (in-  
3 cluding through intimidation, threats, coercion, or harass-  
4 ment) against any covered individual of the employer—

5 (1) for exercising, or attempting to exercise,  
6 any right provided under this Act; or

7 (2) because the covered individual (or another  
8 individual acting at the request of the covered indi-  
9 vidual) has—

10 (A) made a written or oral complaint to  
11 the employer or a Federal, State, or local gov-  
12 ernment entity of a violation of section 3;

13 (B) sought assistance or intervention with  
14 respect to a worker privacy-related concern  
15 from the employer, a Federal, State, or local  
16 government, or a worker representative;

17 (C) instituted, caused to be instituted, or  
18 otherwise participated in any inquiry or pro-  
19 ceeding under or related to this Act;

20 (D) given, or is about to give, any informa-  
21 tion in connection with any inquiry or pro-  
22 ceeding relating to any right provided under  
23 this Act;

24 (E) testified, or is about to testify, in any  
25 inquiry or proceeding relating to any right pro-  
26 vided under this Act; or

1 (F) refused to follow the output of an  
2 automated decision system when exercising pro-  
3 fessional judgement.

4 **SEC. 9. ENFORCEMENT.**

5 (a) IN GENERAL.—

6 (1) DEFINITION.—Notwithstanding section 2,  
7 for purposes of this subsection:

8 (A) COVERED INDIVIDUAL.—The term  
9 “covered individual” means a covered indi-  
10 vidual—

11 (i) described in section 2(4)(A) (other  
12 than covered individuals described in  
13 clauses (iii) through (v) of such section); or

14 (ii) described in section 2(4)(B) with  
15 respect to an employer.

16 (B) EMPLOYER.—The term “employer”  
17 means an employer described in subclause (I)  
18 or (II) of section 2(9)(A)(i).

19 (2) ENFORCEMENT BY THE FAIRNESS AND  
20 TRANSPARENCY OFFICE.—

21 (A) INVESTIGATION.—

22 (i) IN GENERAL.—To ensure compli-  
23 ance with the provisions of this Act, or any  
24 regulation or order issued under this Act,

1 the Secretary, acting through the Direc-  
2 tor—

3 (I) may investigate and gather  
4 data regarding the wages, hours, and  
5 other conditions and practices of em-  
6 ployment (and other work) in any in-  
7 dustry subject to this Act, and may  
8 enter and inspect any place or record  
9 (and make such transcriptions there-  
10 of), question any covered individual,  
11 and investigate any facts, conditions,  
12 practices, or matters as the Secretary  
13 may deem necessary or appropriate to  
14 determine whether an employer has  
15 violated any provision of this Act, or  
16 which may aid in the enforcement of  
17 the provisions of this Act; and

18 (II) may require, by general or  
19 special orders, an employer, to file  
20 with the Secretary, in such form as  
21 the Secretary may prescribe, annual  
22 or special reports or answers in writ-  
23 ing to specific questions, furnishing to  
24 the Secretary such information or  
25 records as the Secretary may require

1 as to the organization, business, con-  
2 duct, practices, management, and re-  
3 lation to other corporations, partner-  
4 ships, and individuals, of the em-  
5 ployer.

6 (ii) REPORTS AND ANSWERS.—An em-  
7 ployer shall file the reports and answers  
8 (including information and records) re-  
9 quired under clause (i)(II) in such manner,  
10 including under oath or otherwise, and  
11 within such reasonable time period as the  
12 Secretary may require.

13 (iii) JOINT INVESTIGATIONS.—The  
14 Secretary, acting through the Director,  
15 may conduct investigations and make re-  
16 quests for information, as authorized  
17 under this Act, on a joint basis with an-  
18 other Federal agency, a State attorney  
19 general, or a State agency.

20 (iv) OBLIGATION TO KEEP, PRESERVE,  
21 AND MAKE AVAILABLE RECORDS.—An em-  
22 ployer shall make, keep, preserve, and  
23 make available to the Secretary records  
24 pertaining to compliance with this Act in  
25 accordance with section 11(c) of the Fair

1 Labor Standards Act of 1938 (29 U.S.C.  
2 211(e)) and in accordance with any regula-  
3 tion or order issued by the Secretary.

4 (B) ENFORCEMENT.—With respect to em-  
5 ployers and covered individuals, the Secretary,  
6 acting through the Director, shall receive, inves-  
7 tigate, and attempt to resolve complaints of vio-  
8 lations of section 3, 4, 5, or 8 in the same man-  
9 ner that the Secretary receives, investigates,  
10 and attempts to resolve complaints of violations  
11 of sections 6 and 7 of the Fair Labor Stand-  
12 ards Act of 1938 (29 U.S.C. 206 and 207).

13 (C) REFERRAL FOR CRIMINAL PRO-  
14 CEEDINGS.—If the Secretary, in the course of  
15 the performance of any act or duty under this  
16 Act, obtains evidence that any employer has en-  
17 gaged in conduct that may constitute a viola-  
18 tion of Federal criminal law, the Secretary shall  
19 refer the matter to the Attorney General for  
20 prosecution under any applicable law. Nothing  
21 in this paragraph shall affect any other author-  
22 ity of the Secretary to disclose information.

23 (D) LITIGATION.—The Solicitor of Labor  
24 may appear for and represent the Secretary on  
25 any litigation brought under this subsection.

## 1 (3) PRIVATE RIGHT OF ACTION.—

## 2 (A) IN GENERAL.—

3 (i) COVERED INDIVIDUALS.—Notwith-  
4 standing any action by the Secretary under  
5 paragraph (2)(B), any covered individual  
6 adversely affected by an alleged violation of  
7 section 3, 4, 5, or 8, may commence a civil  
8 action against any person that violates  
9 such section in any Federal court of com-  
10 petent jurisdiction.

11 (ii) LABOR ORGANIZATIONS AND  
12 WORKER ADVOCACY ORGANIZATIONS.—  
13 Notwithstanding any action by the Sec-  
14 retary under paragraph (2)(B), any labor  
15 organization or worker advocacy organiza-  
16 tion may, on behalf of a covered individual  
17 adversely affected by an alleged violation of  
18 section 3, 4, 5, or 8, commence a civil ac-  
19 tion against any person that violates such  
20 section in any Federal court of competent  
21 jurisdiction.

## 22 (B) RELIEF.—

23 (i) IN GENERAL.—In a civil action  
24 brought under subparagraph (A) in which  
25 the covered individual, labor organization,

1 or worker advocacy organization prevails,  
2 the court may award the covered indi-  
3 vidual, labor organization, or worker advo-  
4 cacy organization—

5 (I) damages of an amount equal  
6 to the sum of any actual damages sus-  
7 tained by the covered individual; or

8 (II) statutory damages described  
9 in clause (iv);

10 (III) injunctive relief; and

11 (IV) equitable relief.

12 (ii) ATTORNEY'S FEES.—In a civil ac-  
13 tion brought under subparagraph (A) in  
14 which the covered individual, labor organi-  
15 zation, or worker advocacy organization  
16 prevails, the court shall award the covered  
17 individual, labor organization, or worker  
18 advocacy organization reasonable attor-  
19 ney's fees and litigation costs.

20 (iii) TEMPORARY RELIEF FOR WHIS-  
21 TLEBLOWERS.—In a civil action brought  
22 under subparagraph (A) regarding a viola-  
23 tion of section 8, the court may award the  
24 covered individual, labor organization, or  
25 worker advocacy organization temporary

1 relief while the case is pending, including  
2 reinstatement.

3 (iv) STATUTORY DAMAGES.—The  
4 court may, in accordance with clause (v),  
5 award statutory damages under clause  
6 (i)(II) against a person in the following  
7 amounts:

8 (I) USING AN AUTOMATED DECI-  
9 SION SYSTEM FOR PROHIBITED AC-  
10 TIVITIES.—For each violation of sec-  
11 tion 3 by an employer with respect to  
12 a covered individual, the court may,  
13 subject to clause (vi), award—

14 (aa) damages of an amount  
15 not less than \$5,000 and not  
16 more than \$20,000; or

17 (bb) for any willful or re-  
18 peated violation by the employer,  
19 damages of an amount not less  
20 than \$10,000 and not more than  
21 \$40,000.

22 (II) RETALIATION ON WHISTLE-  
23 BLOWERS.—For each violation of sec-  
24 tion 8, the court may, subject to  
25 clause (vi), award—

1 (aa) damages of an amount  
2 not less than \$5,000 and not  
3 more than \$50,000; or

4 (bb) for any willful or re-  
5 peated violation, damages of an  
6 amount not less than \$10,000  
7 and not more than \$100,000.

8 (v) CONSIDERATIONS FOR STATUTORY  
9 DAMAGES.—In determining the amount of  
10 statutory damages assessed under clause  
11 (iv), the court shall consider any relevant  
12 circumstances presented by the parties to  
13 the action, including—

14 (I) the nature and seriousness of  
15 the violation;

16 (II) the number of violations;

17 (III) the persistence of the mis-  
18 conduct;

19 (IV) the length of time over  
20 which the misconduct occurred;

21 (V) the willfulness of the mis-  
22 conduct of the employer; and

23 (VI) the assets, liabilities, and  
24 net worth of the employer.

1 (vi) ADJUSTMENT FOR INFLATION.—

2 The dollar amounts referred to subclauses  
3 (I) and (II) of clause (iv) shall be in-  
4 creased annually, for fiscal year 2027 and  
5 every fiscal year thereafter, by the percent  
6 increase, if any, in the consumer price  
7 index for all urban consumers for the most  
8 recent 12-month period for which applica-  
9 ble data is available.

10 (C) REMEDIES FOR STATE WORKERS.—

11 (i) WAIVER OF SOVEREIGN IMMUN-  
12 NITY.—A State's receipt or use of Federal  
13 financial assistance for any program or ac-  
14 tivity of a State shall constitute a waiver  
15 of sovereign immunity, under the 11th  
16 Amendment to the Constitution of the  
17 United States or otherwise, to a suit  
18 brought by a covered individual of that  
19 program or activity, or a labor organiza-  
20 tion or worker advocacy organization on  
21 behalf of such a covered individual, under  
22 this paragraph for equitable, legal, or other  
23 relief authorized under this paragraph.

24 (ii) OFFICIAL CAPACITY.—An official  
25 of a State may be sued in the official ca-

1           capacity of the official by any covered indi-  
2           vidual, or such a labor organization or  
3           worker advocacy organization, who has  
4           complied with the procedures under this  
5           paragraph, for injunctive relief that is au-  
6           thorized under this paragraph. In such a  
7           suit, the court may award to the prevailing  
8           party those costs authorized by section 722  
9           of the Revised Statutes (42 U.S.C. 1988).

10           (iii) APPLICABILITY.—With respect to  
11           a particular program or activity, clause (i)  
12           applies to conduct that occurs—

13                   (I) after the date of enactment of  
14                   this Act; and

15                   (II) on or after the day on which  
16                   a State first receives or uses Federal  
17                   financial assistance for that program  
18                   or activity.

19           (iv) DEFINITION OF PROGRAM OR AC-  
20           TIVITY.—In this subparagraph, the term  
21           “program or activity” has the meaning  
22           given the term in section 606 of the Civil  
23           Rights Act of 1964 (42 U.S.C. 2000d–4a).

24           (D) REMEDIES FOR TRIBAL GOVERNMENT  
25           WORKERS.—

1 (i) WAIVER OF SOVEREIGN IMMUN-  
2 NITY.—A Tribal government’s receipt or  
3 use of Federal financial assistance for any  
4 program or activity of the Tribal govern-  
5 ment shall constitute a waiver of sovereign  
6 immunity to a suit brought by a covered  
7 individual of that program or activity, or a  
8 labor organization or worker advocacy or-  
9 ganization on behalf of such a covered in-  
10 dividual, under this paragraph for equi-  
11 table, legal, or other relief authorized  
12 under this paragraph.

13 (ii) OFFICIAL CAPACITY.—An official  
14 of a Tribal government may be sued in the  
15 official capacity of the official by any cov-  
16 ered individual, or such a labor organiza-  
17 tion or worker advocacy organization, who  
18 has complied with the procedures under  
19 this paragraph for injunctive relief that is  
20 authorized under this paragraph. In such a  
21 suit, the court may award to the prevailing  
22 party those costs authorized by section 722  
23 of the Revised Statutes (42 U.S.C. 1988).

1 (iii) APPLICABILITY.—With respect to  
2 a particular program or activity, clause (i)  
3 applies to conduct that occurs—

4 (I) after the date of enactment of  
5 this Act; and

6 (II) on or after the day on which  
7 a Tribal government first receives or  
8 uses Federal financial assistance for  
9 that program or activity.

10 (iv) DEFINITION OF PROGRAM OR AC-  
11 TIVITY.—In this subparagraph, the term  
12 “program or activity” has the meaning  
13 given the term in section 606 of the Civil  
14 Rights Act of 1964 (42 U.S.C. 2000d–4a).

15 (4) ENFORCEMENT BY THE GOVERNMENT AC-  
16 COUNTABILITY OFFICE AND LIBRARY OF CON-  
17 GRESS.—Notwithstanding any other provision of this  
18 subsection, in the case of the Government Account-  
19 ability Office and the Library of Congress, the au-  
20 thority of the Secretary under this subsection shall  
21 be exercised respectively by the Comptroller General  
22 of the United States and the Librarian of Congress,  
23 respectively.

24 (b) INDIVIDUALS COVERED BY CONGRESSIONAL AC-  
25 COUNTABILITY ACT OF 1995.—The powers, remedies, and

1 procedures provided in the Congressional Accountability  
2 Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as de-  
3 fined in section 101 of that Act (2 U.S.C. 1301)), or any  
4 person, alleging a violation of section 202(a)(1) of that  
5 Act (2 U.S.C. 1312(a)(1)), shall be the powers, remedies,  
6 and procedures this Act provides to that Board, or any  
7 person, with regard to an allegation of a violation of sec-  
8 tion 3, 4, 5, or 8 against a covered individual described  
9 in section 2(4)(A)(iii) or described in section 2(4)(B) with  
10 respect to an employer described in section 2(9)(A)(i)(III).

11 (c) INDIVIDUALS COVERED BY CHAPTER 5 OF TITLE  
12 3, UNITED STATES CODE.—The powers, remedies, and  
13 procedures provided in chapter 5 of title 3, United States  
14 Code, to the President, the Merit Systems Protection  
15 Board, or any person, alleging a violation of section  
16 412(a)(1) of that title, shall be the powers, remedies, and  
17 procedures this Act provides to the President, that Board,  
18 or any person, respectively, with regard to an allegation  
19 of a violation of section 3, 4, 5, or 8 against a covered  
20 individual described in section 2(4)(A)(iv) or described in  
21 section 2(4)(B) with respect to an employer described in  
22 section 2(9)(A)(i)(IV).

23 (d) INDIVIDUALS COVERED BY CHAPTER 63 OF  
24 TITLE 5, UNITED STATES CODE.—The powers, remedies,  
25 and procedures provided in title 5, United States Code,

1 to an employing agency, provided in chapter 12 of that  
2 title to the Merit Systems Protection Board, or provided  
3 in that title to any person, alleging a violation of chapter  
4 63 of that title, shall be the powers, remedies, and proce-  
5 dures this Act provides to that agency, that Board, or any  
6 person, respectively, with regard to an allegation of a vio-  
7 lation of section 3, 4, 5, or 8 against a covered individual  
8 described in section 2(4)(A)(v) or described in section  
9 2(4)(B) with respect to an employer described in section  
10 2(9)(A)(i)(V).

11 (e) ENFORCEMENT BY STATES.—

12 (1) IN GENERAL.—In any case in which a State  
13 attorney general or a State privacy regulator has  
14 reason to believe that an interest of the residents of  
15 a State has been or is adversely affected by any per-  
16 son who violates any provision of section 3, 4, 5, or  
17 8, including a regulation or order prescribed under  
18 this Act, the State attorney general or State privacy  
19 regulator, as *parens patriae*, may bring a civil action  
20 on behalf of the residents of the State in an appro-  
21 priate State court or an appropriate district court of  
22 the United States to—

23 (A) enjoin further violation of such provi-  
24 sion by the person;

25 (B) compel compliance with such provision;

1 (C) obtain damages (including statutory  
2 damages described in paragraph (4)), civil pen-  
3 alties, restitution, or other compensation on be-  
4 half of the residents of the State; or

5 (D) obtain reasonable attorney's fees and  
6 other litigation costs reasonably incurred.

7 (2) RIGHTS OF AGENCY.—Before initiating a  
8 civil action under paragraph (1), the State attorney  
9 general or State privacy regulator, as the case may  
10 be, shall notify the Secretary in writing of such civil  
11 action. Upon receiving such notice, the Secretary  
12 may—

13 (A) intervene in such action; and

14 (B) upon intervening—

15 (i) be heard on all matters arising in  
16 such civil action; and

17 (ii) file petitions for appeal of a deci-  
18 sion in such action.

19 (3) PREEMPTIVE ACTION BY AGENCY.—In any  
20 case in which a civil action is instituted by or on be-  
21 half of the Secretary for a violation of this Act, in-  
22 cluding a regulation promulgated under this Act, a  
23 State attorney general or State privacy regulator  
24 may not, during the pendency of such action, insti-  
25 tute a civil action against any defendant named in

1 the complaint in the action instituted by or on behalf  
2 of the Secretary for a violation that is alleged in  
3 such complaint. In a case brought by the Secretary  
4 that affects the interests of a State, the State attorney  
5 general or State privacy regulator may intervene  
6 as of right pursuant to the Federal Rules of Civil  
7 Procedure.

8 (4) STATUTORY DAMAGES.—In a civil action in-  
9 stituted under paragraph (1), a court may award  
10 statutory damages under paragraph (1)(C) against a  
11 person for a violation of any provision of section 3,  
12 4, 5, or 8—

13 (A) in an amount not more than \$50,000  
14 for each such violation; or

15 (B) in the case of such a violation that re-  
16 sults in the discharge of a covered individual or  
17 other serious economic harm to a covered indi-  
18 vidual by such a person who has, within the  
19 preceding 5 years, committed another such vio-  
20 lation resulting in such a discharge or other se-  
21 rious economic harm, not more than \$100,000  
22 for each such violation.

23 (5) PRESERVATION OF STATE POWERS.—Ex-  
24 cept as provided in paragraph (3), no provision of  
25 this subsection shall be construed as altering, lim-

1       iting, or affecting the authority of a State attorney  
2       general or State privacy regulator to—

3               (A) bring an action or other regulatory  
4               proceeding arising solely under the laws in ef-  
5               fect in that State; or

6               (B) exercise the powers conferred on the  
7               State attorney general or State privacy regu-  
8               lator by the laws of the State, including the  
9               ability to conduct investigations, administer  
10              oaths or affirmations, or compel the attendance  
11              of witnesses or the production of documentary  
12              or other evidence.

13       (f) ARBITRATION AND CLASS ACTION.—

14              (1) IN GENERAL.—Notwithstanding any other  
15              provision of law, no predispute arbitration agree-  
16              ment or predispute joint-action waiver shall be valid  
17              or enforceable with respect to any alleged violation  
18              of section 3, 4, 5, or 8.

19              (2) ARBITRATION PURSUANT TO A COLLECTIVE  
20              BARGAINING AGREEMENT.—Nothing in this sub-  
21              section shall limit the enforceability of any arbitra-  
22              tion provision in a collective bargaining agreement  
23              between an employer and a labor organization or  
24              worker advocacy organization.

1 **SEC. 10. COORDINATION.**

2 In carrying out this Act, the Secretary, acting  
3 through the Director, shall coordinate with any appro-  
4 priate Federal agency or State regulator to promote con-  
5 sistent regulatory treatment of automated decision sys-  
6 tems.

7 **SEC. 11. RELATION TO OTHER LAWS.**

8 Except as explicitly provided otherwise in this Act,  
9 nothing in this Act, including any regulations promulgated  
10 under this Act, shall be construed to preempt, modify,  
11 limit, or supersede—

- 12 (1) any provision of Federal or State law; or  
13 (2) the authority of the Federal Trade Commis-  
14 sion, Equal Employment Opportunity Commission,  
15 National Labor Relations Board, or any other Fed-  
16 eral agency.

17 **SEC. 12. RELATION TO COLLECTIVE BARGAINING AGREE-**  
18 **MENTS.**

19 (a) **RULE OF CONSTRUCTION.**—Nothing in this Act,  
20 including any regulations promulgated under this Act,  
21 shall be construed to supersede or preempt employment  
22 or other work terms or conditions agreed upon in collective  
23 bargaining agreements that are more protective of or more  
24 beneficial to a covered individual than otherwise required  
25 pursuant to this Act, including any regulation promul-  
26 gated under this Act.

1 (b) REQUIREMENT FOR NOTICE AND BARGAINING.—

2 An employer shall provide advance notice to the relevant  
3 collective bargaining units or the representative of any  
4 covered individuals of the employer for purposes of collec-  
5 tive bargaining and bargain in good faith with such units  
6 or representative over the decision to implement and ef-  
7 fects of implementing any policy, practice, or automated  
8 decision system covered by this Act.

9 **SEC. 13. SEVERABILITY.**

10 If any provision of this Act or the application of such  
11 provision to any person or circumstance is held to be un-  
12 constitutional, the remainder of this Act and the applica-  
13 tion of the provisions of such Act to all other persons or  
14 circumstances shall not be affected thereby.

15 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

16 There is authorized to be appropriated to the Sec-  
17 retary to carry out this Act \$100,000,000 for each of fis-  
18 cal years 2027 through 2036.

○