

HOUSE BILL 1255

K3

4lr2562
CF SB 957

By: **Delegate Bartlett**

Introduced and read first time: February 8, 2024

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Automated Employment Decision Tools – Prohibition**

3 FOR the purpose of prohibiting, subject to a certain exception, an employer from using an
4 automated employment decision tool to make certain employment decisions;
5 requiring an employer, under certain circumstances, to notify an applicant for
6 employment of the employer’s use of an automated employment decision tool within
7 a certain time period; and generally relating to automated employment decision
8 tools.

9 BY adding to

10 Article – Labor and Employment

11 Section 3–718

12 Annotated Code of Maryland

13 (2016 Replacement Volume and 2023 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

15 That the Laws of Maryland read as follows:

16 **Article – Labor and Employment**

17 **3–718.**

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (2) “ALGORITHMIC DECISION SYSTEM” MEANS A COMPUTATIONAL
21 PROCESS THAT FACILITATES DECISION MAKING, INCLUDING DECISIONS DERIVED
22 FROM MACHINES, STATISTICS, FACIAL RECOGNITION, AND DECISIONS ON PAPER.

23 (3) “AUTOMATED EMPLOYMENT DECISION TOOL” MEANS AN

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 ALGORITHMIC DECISION SYSTEM THAT AUTOMATICALLY FILTERS:

2 (I) APPLICANTS OR POTENTIAL APPLICANTS FOR
3 EMPLOYMENT; OR

4 (II) FOR A TERM, CONDITION, OR PRIVILEGE OF EMPLOYMENT
5 IN A WAY THAT ESTABLISHES A PREFERRED APPLICANT FOR EMPLOYMENT.

6 (4) "DEPARTMENT" MEANS THE MARYLAND DEPARTMENT OF
7 LABOR.

8 (5) "HIGH-RISK" MEANS AN ACT THAT IS LIKELY TO:

9 (I) RESULT IN UNLAWFUL DISCRIMINATION; OR

10 (II) HAVE AN UNLAWFUL DISPARATE IMPACT ON AN INDIVIDUAL
11 OR A GROUP OF INDIVIDUALS ON THE BASIS OF AN ACTUAL OR PERCEIVED
12 CHARACTERISTIC.

13 (6) "IMPACT ASSESSMENT" MEANS A DOCUMENTED RISK-BASED
14 EVALUATION OF A SYSTEM THAT EMPLOYS AN ALGORITHMIC DECISION SYSTEM.

15 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN
16 EMPLOYER MAY NOT USE AN AUTOMATED EMPLOYMENT DECISION TOOL TO:

17 (1) SCREEN APPLICANTS FOR EMPLOYMENT; OR

18 (2) OTHERWISE HELP THE EMPLOYER DECIDE COMPENSATION OR
19 OTHER TERMS, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT IN THE STATE
20 REGARDING APPLICANTS FOR EMPLOYMENT.

21 (C) AN EMPLOYER MAY USE AN AUTOMATED EMPLOYMENT DECISION TOOL
22 IF:

23 (1) THE AUTOMATED EMPLOYMENT DECISION TOOL:

24 (I) WAS SUBJECT TO AN IMPACT ASSESSMENT DURING THE
25 YEAR THAT IMMEDIATELY PRECEDES THE DATE THE EMPLOYER FIRST BEGINS
26 USING THE AUTOMATED EMPLOYMENT DECISION TOOL; AND

27 (II) IS SUBJECT TO AN IMPACT ASSESSMENT EACH YEAR IT IS
28 USED BY THE EMPLOYER; AND

1 **(2) THE IMPACT ASSESSMENTS REQUIRED UNDER ITEM (1) OF THIS**
2 **SUBSECTION DETERMINE THAT USE OF THE AUTOMATED EMPLOYMENT DECISION**
3 **TOOL WOULD NOT INVOLVE A HIGH-RISK ACTION.**

4 **(D) IF AN EMPLOYER USES AN AUTOMATED EMPLOYMENT DECISION TOOL**
5 **UNDER SUBSECTION (C) OF THIS SECTION, WITHIN 30 DAYS AFTER THE USE OF THE**
6 **AUTOMATED EMPLOYMENT DECISION TOOL, THE EMPLOYER SHALL NOTIFY EACH**
7 **APPLICANT FOR EMPLOYMENT WITH RESPECT TO WHOM THE AUTOMATED**
8 **EMPLOYMENT DECISION TOOL WAS USED THAT:**

9 **(1) AN AUTOMATED EMPLOYMENT DECISION TOOL WAS USED IN**
10 **CONNECTION WITH THE APPLICANT'S APPLICATION FOR EMPLOYMENT; AND**

11 **(2) THE AUTOMATED EMPLOYMENT DECISION TOOL:**

12 **(I) WAS SUBJECT TO AN IMPACT ASSESSMENT UNDER**
13 **SUBSECTION (C) OF THIS SECTION; AND**

14 **(II) ASSESSED THE JOB QUALIFICATIONS OR CHARACTERISTICS**
15 **OF THE APPLICANT.**

16 **(E) (1) AN EMPLOYER THAT VIOLATES THIS SECTION SHALL BE**
17 **ASSESSED A CIVIL PENALTY OF:**

18 **(I) UP TO \$500 FOR A FIRST VIOLATION; AND**

19 **(II) AT LEAST \$500 BUT NOT EXCEEDING \$1,500 FOR A SECOND**
20 **OR SUBSEQUENT VIOLATION.**

21 **(2) (I) EACH FAILURE OF AN EMPLOYER TO PROVIDE THE NOTICE**
22 **REQUIRED UNDER SUBSECTION (D) OF THIS SECTION WITHIN THE REQUIRED TIME**
23 **PERIOD IS A SEPARATE VIOLATION.**

24 **(II) EACH 30-DAY PERIOD THEREAFTER IN WHICH NOTICE IS**
25 **NOT PROVIDED TO THE APPLICANT FOR EMPLOYMENT IS A SEPARATE VIOLATION.**

26 **(F) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS**
27 **SECTION, INCLUDING REGULATIONS GOVERNING THE DEVELOPMENT AND**
28 **PERFORMANCE OF IMPACT ASSESSMENTS FOR AUTOMATED EMPLOYMENT**
29 **DECISION TOOLS.**

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2024.