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HOUSE BILL NO. 1514

Offered January 23, 2026

A BILL to amend the Code of Virginia by adding sections numbered 2.2-1202.2 and 15.2-1500.2 and by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:12, relating to employment decisions; automated decision systems; civil penalty.

Patron—Tran

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 2.2-1202.2 and 15.2-1500.2 and by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:12 as follows:

§ 2.2-1202.2. Additional powers and duties of Director; automated decision systems.

A. For purposes of this section:

"Algorithmic discrimination" means the use of an artificial intelligence system that results in an unlawful differential treatment or impact that disfavors an individual or group of individuals on the basis of their actual or perceived age, color, disability, ethnicity, genetic information, limited proficiency in the English language, national origin, race, religion, reproductive health, sex, sexual orientation, veteran status, or other classification protected under state or federal law.

"Artificial intelligence system" means any machine learning-based system that, for any explicit or implicit objective, infers from the inputs such system receives how to generate outputs, including content, decisions, predictions, and recommendations, that can influence physical or virtual environments.

"Automated decision system" means any computational process, including those derived from artificial intelligence systems or machine learning, used to make or assist in making decisions related to employment.

"Automated decision system" does not include identity and access management tools, calculators, databases, datasets, or other compilations of data.

"Employment decision" means a decision related to an individual's employment status, including the recruitment, hiring, promotion, discipline, or termination of an employee. "Employment decision" includes a decision related to the content publicized for the recruitment of individuals for an employment opportunity, but does not include a decision related to the tools used to advertise or market an employment opportunity.

"Personal data" means the same as that term is defined in § 59.1-575.

"Substantial factor" means a factor that is (i) used as the principal basis for making an employment decision, (ii) capable of altering the outcome of an employment decision, and (iii) generated by an automated decision system. "Substantial factor" includes any use of an automated decision system to generate any content, decision, prediction, or recommendation concerning an individual that has a legal or similarly significant effect on an employment decision concerning the individual.

B. The Director shall require any state agency that uses an automated decision system as a substantial factor in any employment decision to:

1. Ensure that the automated decision system and the use of such system complies with federal and state law, including the Virginia Human Rights Act (§ 2.2-3900 et seq.);

2. Disclose (i) the fact that an automated decision system is being used; (ii) the intended use of the automated decision system, including evaluating job candidates, making compensation decisions, or considering employees for promotion; (iii) the type of data inputs received by the automated decision system and the source of such data; (iv) how the automated decision system will be used in the state agency's decision-making processes; and (v) the extent to which an individual's personal data will be shared with third parties or used as future inputs for the automated decision system;

3. Provide to all individuals the right to opt out of the use of the automated decision system for employment decisions and a process by which individuals with disabilities may seek accommodations for the automated decision system;

4. Annually test, or ensure that an appropriate contractor employed by such agency annually tests, the automated decision system for algorithmic discrimination and certify its compliance with federal and state law;

5. Ensure that state agency staff who handle personal data collected by the automated decision system and the storage of such data do so in accordance with federal and state law and all state agency data agreements and privacy policies; and

6. Train state agency staff who use the automated decision system for employment decisions to comply with applicable federal and state law and ensure that the automated decision system does not result in algorithmic discrimination.

59 C. No employment decision shall be made by a state agency without the involvement of a human decision
 60 maker. No state agency shall solely use any recommendation or prediction from an automated decision
 61 system to make an employment decision.

62 D. The Department shall establish and publicize a process for applicants for employment and employees
 63 to file concerns and complaints regarding the use of automated decision systems in the Commonwealth's
 64 employment decisions and a process for the investigation and resolution of any such concerns and
 65 complaints. Such process shall be separate and apart from the dispute resolution process described in
 66 § 2.2-1202.1.

67 **§ 15.2-1500.2. Employment decisions; use of automated decision system prohibited.**

68 A. As used in this section, unless the context requires a different meaning:

69 "Algorithmic discrimination" means the use of an artificial intelligence system that results in an unlawful
 70 differential treatment or impact that disfavors an individual or group of individuals on the basis of their
 71 actual or perceived age, color, disability, ethnicity, genetic information, limited proficiency in the English
 72 language, national origin, race, religion, reproductive health, sex, sexual orientation, veteran status, or other
 73 classification protected under state or federal law.

74 "Artificial intelligence system" means any machine learning-based system that, for any explicit or implicit
 75 objective, infers from the inputs such system receives how to generate outputs, including content, decisions,
 76 predictions, and recommendations, that can influence physical or virtual environments.

77 "Automated decision system" means any computational process, including those derived from artificial
 78 intelligence systems or machine learning, used to make or assist in making decisions related to employment.
 79 "Automated decision system" does not include identity and access management tools, calculators, databases,
 80 datasets, or other compilations of data.

81 "Employment decision" means a decision related to an individual's employment status, including the
 82 recruitment, hiring, promotion, discipline, or termination of an employee. "Employment decision" includes a
 83 decision related to the content publicized for the recruitment of individuals for an employment opportunity,
 84 but does not include a decision related to the tools used to advertise or market an employment opportunity.

85 "Personal data" means the same as that term is defined in § 59.1-575.

86 "Substantial factor" means a factor that is (i) used as the principal basis for making an employment
 87 decision, (ii) capable of altering the outcome of an employment decision, and (iii) generated by an automated
 88 decision system. "Substantial factor" includes any use of an automated decision system to generate any
 89 content, decision, prediction, or recommendation concerning an individual that has a legal or similarly
 90 significant effect on an employment decision concerning the individual.

91 B. Any department, office, board, commission, agency, or instrumentality of local government that uses an
 92 automated decision system as a substantial factor in any employment decision shall:

93 1. Ensure that the automated decision system and the use of such system complies with federal and state
 94 law, including the Virginia Human Rights Act (§ 2.2-3900 et seq.);

95 2. Disclose (i) the fact that an automated decision system is being used; (ii) the intended use of the
 96 automated decision system, including evaluating job candidates, making compensation decisions, or
 97 considering employees for promotion; (iii) the type of data inputs received by the automated decision system
 98 and the source of such data; (iv) how the automated decision system will be used in the decision-making
 99 processes of the department, office, board, commission, agency, or instrumentality of local government; and
 100 (v) the extent to which an individual's personal data will be shared with third parties or used as future inputs
 101 for the automated decision system;

102 3. Provide to all individuals the right to opt out of the use of the automated decision system for
 103 employment decisions and a process by which individuals with disabilities may seek accommodations for the
 104 automated decision system;

105 4. Annually test, or ensure that an appropriate contractor employed by such department, office, board,
 106 commission, agency, or instrumentality of local government annually tests, the automated decision system for
 107 algorithmic discrimination and certify its compliance with federal and state law;

108 5. Ensure that the staff of the department, office, board, commission, agency, or instrumentality of local
 109 government who handle personal data collected by the automated decision system and the storage of such
 110 data do so in accordance with federal and state law and all data agreements and privacy policies of such
 111 department, office, board, commission, agency, or instrumentality of local government; and

112 6. Train the staff of the department, office, board, commission, agency, or instrumentality of local
 113 government who use the automated decision system for employment decisions to comply with applicable
 114 federal and state law and ensure that the automated decision system does not result in algorithmic
 115 discrimination.

116 C. No employment decision shall be made by a department, office, board, commission, agency, or
 117 instrumentality of local government without the involvement of a human decision maker. No department,
 118 office, board, commission, agency, or instrumentality of local government shall solely use any
 119 recommendation or prediction from an automated decision system to make an employment decision.

120 D. Any department, office, board, commission, agency, or instrumentality of local government that uses

121 *an automated decision system as a substantial factor in any employment decision shall establish and*
122 *publicize a process for applicants for employment and employees to file concerns and complaints regarding*
123 *the use of automated decision systems in employment decisions and a process for the investigation and*
124 *resolution of any such concerns and complaints.*

125 **§ 40.1-28.7:12. Employment decisions; use of automated decision system prohibited; civil penalty.**

126 *A. As used in this section:*

127 *"Artificial intelligence system" means any machine learning-based system that, for any explicit or implicit*
128 *objective, infers from the inputs such system receives how to generate outputs, including content, decisions,*
129 *predictions, and recommendations, that can influence physical or virtual environments.*

130 *"Automated decision system" means any computational process, including those derived from artificial*
131 *intelligence systems or machine learning, used to make or assist in making decisions related to employment.*

132 *"Automated decision system" does not include identity and access management tools, calculators, databases,*
133 *datasets, or other compilations of data.*

134 *"Employer" means the same as that term is defined in § 40.1-2.*

135 *"Employment decision" means any final decision made by an employer related to an individual's*
136 *employment status, including the recruitment, hiring, promotion, discipline, or termination of an employee.*

137 *"Employment decision" includes a decision related to the content publicized for the recruitment of individuals*
138 *for an employment opportunity, but does not include a decision related to the tools used to advertise or*
139 *market an employment opportunity.*

140 *B. No employment decision shall be made by an employer without the involvement of a human decision*
141 *maker. No employer shall solely use any recommendation or prediction from an automated decision system*
142 *to make an employment decision.*

143 *C. Any employer that knowingly violates the provisions of this section shall be subject to a civil penalty*
144 *not to exceed \$500 for a first violation and \$1,500 for each subsequent violation. The Commissioner shall*
145 *notify any employer that he alleges has violated the provisions of this section by certified mail. Such notice*
146 *shall contain a description of the alleged violation. Within 15 days of receipt of notice of the alleged*
147 *violation, the employer may request an informal conference regarding such violation with the Commissioner.*
148 *In determining the amount of any penalty to be imposed, the Commissioner shall consider the size of the*
149 *business of the employer charged and the gravity of the violation. The decision of the Commissioner shall be*
150 *final. Civil penalties under this section shall be assessed by the Commissioner and paid to the Literary Fund.*
151 *The Commissioner shall prescribe procedures for the payment of proposed penalties that are not contested by*
152 *employers.*

153 *E. The Commissioner or his authorized representative shall have the right to petition a circuit court for*
154 *injunctive or such other relief as may be necessary for the enforcement of this section.*