

Department of Planning and Budget
2026 General Assembly Session
State Fiscal Impact Statement

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ORIGINAL

Bill Number: HB1514

Patron: Tran

Bill Title: Employment decisions; automated decision systems; civil penalty.

Bill Summary: Provides that the Director of the Department of Human Resource Management shall require any state agency that uses an automated decision system as a substantial factor in any employment decision, as those terms are defined in the bill, to (i) ensure that such system and the use of such system complies with federal and state law, (ii) make certain disclosures, (iii) provide an opt-out mechanism, (iv) annually test such system, (v) ensure data security, and (vi) train agency staff on such system. The bill requires the Department and local government employers to establish and publicize a process for applicants for employment and employees to file concerns and complaints regarding the use of automated decision systems in such employment decisions and a process for the investigation and resolution of any such concerns and complaints. The bill provides that no final employment decision shall be made by an employer, as defined in Title 40.1, without the involvement of a human decision maker, and no employer shall solely use any recommendation or prediction from an automated decision system to make a final employment decision. The bill subjects violating employers to civil penalties assessed by the Department of Labor and Industry.

Budget Amendment Necessary: See
"Explanation"

Items Impacted: N/A

Explanation: Agencies using automated decision systems will incur additional expenses for compliance with the bill and may require additional resources to do so.

Fiscal Summary: Agencies that opt to use automated decision systems as part of making employment decisions will incur additional expenses, but such expenses can vary widely depending on the system size and complexity. The Department of Human Resource Management will incur expenses to develop training for agencies using automated decision systems. The Department of Labor and Industry may incur additional expenses for enforcing compliance among employers.

Fiscal Analysis: The bill require the Director of the Department of Human Resource Management (DHRM) implement new policies for state agencies around the use of automated decision systems, as defined in the bill. These policies will require ensuring such systems comply with federal and state law, annual testing of the systems for algorithmic discrimination, and training of agency staff to comply with the provisions of the bill.

At this time, DHRM staff is not aware of any state agency that is currently using the automated decision systems described in the bill, but is aware of that capability being available in commercial enterprise human resource software used by some institutions of higher education.

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Should agencies begin using such systems, they will incur costs to comply with the bill. The costs to test the systems and ensure compliance with state and federal law can vary depending on the complexity of the system. DHRM provides that independent bias audits for a single system could range between \$18,000 and \$48,000. Larger, enterprise level system validations could cost in excess of \$100,000. The costs of such audits could also be built into contractual terms with the vendor providing the software.

DHRM will be required to provide training to state agency staff who use automated decision systems for employment decisions. DHRM will incur expenses to develop that training, but the costs to do so are currently unavailable.

The bill implements similar requirements for local government, but these provisions are not expected to have a state fiscal impact.

The bill forbids employers, as defined in § 40.1-2, Code of Virginia, from making employment decisions without the involvement of a human decision maker or from solely using any recommendation or prediction from an automated decision system to make an employment decision. Employers that knowingly violate these provisions are subject to a civil penalty not to exceed \$500 for a first violation and not to exceed \$1,500 for subsequent violations. Such amounts are to be determined by the Commissioner of the Department of Labor and Industry (DOLI) and paid into the Literary Fund. The number of violations and penalties assessed is unknown at this time, and therefore the impact on the Literary Fund is indeterminate.

The provisions in this section of the bill may increase the number of inquiries and complaints at DOLI, which may result in an increase in workload; however, this amount is indeterminate.

Other: None.