

ACLU OF RI POSITION: SUPPORT

**TESTIMONY ON 22-H 7223,
AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT
February 15, 2022**

As we noted on another piece of legislation concerning the use of artificial intelligence in insurance practices (H 7230, also introduced by Representative McNamara), the ubiquitous use of artificial intelligence and algorithms across all fields has rightfully applied scrutiny to the manner in which these technologies can and have perpetuated systems of discrimination. For this same reason, we are highly supportive of this legislation which would create a commission to examine the use of artificial intelligence in the process of making government decisions.

Though the breadth of AI in private industry is a problem on its own, the degree to which it has and could be relied upon in governmental processes is one meriting attention from our legislature. In just the past few years, several different varieties of common predictive modeling algorithms have been found to maintain and exacerbate existing inequities. It is thus critical that we ensure that these technologies are not inappropriately applied in the policy making process.

The use of risk assessment algorithms in the criminal justice context is one such example – algorithms used pretrial to predict an arrested individual’s potential future criminal behaviors have inappropriately given “judges recommendations that make future violence seem more predictable and more certain than it actually is.”¹ With the Rhode Island government taking active steps to reduce incarceration in our state, and to examine the discriminatory processes which may be contributing to our incarceration rates. A simultaneous study of AI in this application, whether or not it is currently being used, is additionally deserved.

Of course, AI has not only been applied in a criminal justice setting. Predictive modeling, algorithms and AI have been used to set loan rates, determine whether individuals are qualified for housing, and even screen for job candidates. Even though this technology is used for tasks with enormous personal implications, their nature is not objective. Facial recognition technology, for instance, has generated serious concerns about the accuracy with which white individuals are identified versus BIPOC individuals, with alarmingly high rates of inaccuracy in particular for BIPOC individuals.² Job seekers who apply to positions via a program which evaluates candidates

¹ <https://www.nytimes.com/2019/07/17/opinion/pretrial-ai.html>

² <https://privacysos.org/blog/five-fast-facts-from-the-federal-study-of-demographic-bias-in-facial-recognition/>

utilizing AI software could find their job application rejected solely on the basis of systemic biases which the software was trained to identify, intentionally or not.³ The risks of misuse are great, and the capacity for prolonged and substantial use of AI to exacerbate systems of discrimination are not hypothetical. In fact, based on the current technology, we are concerned that it could be all but guaranteed in some contexts.

Government examination of AI is, given the substantial documented issues with the technology, particularly warranted to ensure that in the facilitation of state policy AI is not contributing to any existing disparities or creating new ones. We strongly urge passage of this legislation. Thank you for your consideration.

Submitted By: Hannah Stern, Policy Associate

³ https://www.americanbar.org/groups/business_law/publications/blt/2020/10/ai-in-hiring/