



Legislative Testimony
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**Written Testimony Supporting Senate Bill 1103, An Act Concerning
Artificial Intelligence, Automated Decision-Making and Personal Data
Privacy**

Senator Maroney, Representative D'Agostino, Ranking Members Cicarella and Rutigliano, and distinguished members of the General Law Committee:

My name is Jess Zaccagnino, and I am the policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am writing to testify in support of Senate Bill 1103, An Act Concerning Artificial Intelligence, Automated Decision-Making and Personal Data Privacy.

Every day, governments make thousands of decisions that impact our lives. Each of these decisions, both big and small, are increasingly determined by a government algorithm. Algorithms are used in many arenas of government: facial recognition by police, determining school and Medicaid budgeting, pretrial risk assessments, and child neglect and domestic violence risk assessments.¹ Algorithms and artificial intelligence can perpetuate racial bias and inequity and deeply change how people interact with the government.²

But even though algorithms are being used to make important decisions, we know very little about how and when they are used, their design, and their efficacy. The Media Freedom and Information Access Clinic at Yale School of Law found that at

¹ *Why the ACLU-NJ's Automated Injustice Project is Investigating Government Algorithms and Their Effect on All New Jerseyans*, ACLU-NJ (Aug. 2, 2022), <https://www.aclu-nj.org/en/news/why-aclu-njs-automated-injustice-project-investigating-government-algorithms-and-their-effect>.

² *Blueprint for an AI Bill of Rights*, WHITE HOUSE (accessed Feb. 27, 2023), <https://www.whitehouse.gov/ostp/ai-bill-of-rights/>.

least three state agencies were using algorithmic decision-making in secret.³ The State Department of Education has used the algorithm developed for matching physicians into residency programs to place children in open choice schools in Hartford. The Department of Children and Families temporarily used an algorithm to spot child abuse, but quickly halted its use after encountering problems. Finally, the report found evidence that the Department of Administrative Services might be using an algorithm in relation to state job applications, but the clinic's access to information was limited. The study found that these algorithms will make mistakes because they are poorly designed or to errors in code, that they magnify biases contained in historic data, and that agencies often acquire algorithms without fully understanding their scope and reliability.⁴ At the same time, algorithms lack accountability and current disclosure laws put algorithms in a black box.

In January, the Connecticut Advisory Committee to the U.S. Commission on Civil Rights studied the civil rights implications of algorithms used by the state. The Committee expressed its concern that algorithms might limit people's opportunities, like "employment or credit; prevent access to critical resources or services such as housing; reflect and reproduce existing inequities in highly policed neighborhoods; and/or embed new harmful bias and discrimination through inaccurate language translation."⁵ The Committee urged the passage of a comprehensive Connecticut Artificial Intelligence Bill of Rights with safeguards for the development, use, and monitoring of algorithms. This Artificial Intelligence Bill of Rights would likely be based off of the White House's *Blueprint for an AI Bill of Rights*, intended to guide the design, use, and deployment of AI and protect people from discrimination and data privacy breaches.⁶ Our neighbor, Vermont, successfully enacted similar legislation in 2022 required that a state agency review and inventory algorithms used

³ *Algorithmic Accountability White Paper*, MEDIA FREEDOM AND INFORMATION ACCESS CLINIC AT YALE LAW SCHOOL (accessed Feb. 27, 2023), <https://www.aclu-nj.org/en/news/why-aclu-njs-automated-injustice-project-investigating-government-algorithms-and-their-effect>.

⁴ *Id.*

⁵ *The Civil Rights Implications of Algorithms in Connecticut*, CONN. ADVISORY CMTE, U.S. COMM'N CIV. RTS. (Jan. 2023), <https://www.usccr.gov/files/2023-02/ct-sac-memo-on-algorithms.pdf>.

⁶ *Supra* note 3.

by the state, and subsequently report to the legislature on its findings.⁷ Vermont also created an Artificial Intelligence Advisory Council of experts from diverse backgrounds to advise the state on its implementation efforts. This Council is similar to the task force contemplated by this bill, but with additional beneficial specificity as to the makeup of the Council. Vermont provides an excellent model as to what a similar algorithm system could look like in Connecticut.

Senate Bill 1103 builds on the work done by the Data Privacy Working Group. The bill would establish an independent Office of Artificial Intelligence within the Department of Administrative Services to develop procedures guiding the designing, utilizing, and procuring of algorithms in a way that addresses privacy, civil rights, and civil liberties, that does not disproportionately impact protected groups of people, and to weigh the use of algorithms. Once the Office of Artificial Intelligence reviews and inventories state algorithms, they will then report back to the legislature. It is imperative that these findings are made available to the public. Additionally, the bill establishes a task force to further study artificial intelligence and draft an artificial intelligence bill of rights.

The exponential growth of technology, data, and artificial intelligence is one of the greatest challenges facing our modern era: the tools that have such incredible benefits also pose threats to our civil rights and civil liberties if misused. The ACLU-CT supports measures that increase algorithmic oversight, and encourages this Committee to support legislation that sheds light on the ways in which our state uses algorithms to make decisions. Senate Bill 1103 is a good first step toward instituting an Artificial Intelligence Bill of Rights, like the ones in Vermont and proposed by the White House Blueprint. This legislation could be further strengthened by amending Section 4(e) to require that the Office of Artificial Intelligence periodically reevaluate algorithms, rather than merely providing that the Office *may* reevaluate. We also

⁷ Vt. H.410 (2022), <https://legislature.vermont.gov/bill/status/2022/H.410>.

recommend amending Section 8 of the bill to require a diverse range of task force members, like academics, lawyers, human rights experts, with experience in artificial intelligence, as well as including the Freedom of Information Commission on the task force. We urge this Committee to consider the aforementioned recommendations and support Senate Bill 1103.