

## Joint Committee on Advanced Information Technology, the Internet and Cybersecurity 2025-2026 (194th) Bill Summary

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**Bill Number:** H. 77

**Title:** An Act Fostering Artificial Intelligence Responsibility (FAIR Act)

**Lead Sponsor:** Representative Tricia Farley-Bouvier

**Hearing Date:** September 11, 2025

**Report Date:** November 10, 2025

**Current Law:**

M.G.L. c. 30 pertains generally to the operation of state departments and commissions and to state officers and employees.

M.G.L. c. 30A sets forth the administrative procedure of the Commonwealth.

M.G.L. c. 30B sets forth the procurement laws for the Commonwealth.

Title XXI of Part I of the Massachusetts General Laws regulates labor and industries.

M.G.L. c. 149 § 19B requires notices to employees pertaining to the use of lie detector tests in the employment context.

M.G.L. c. 149 § 27C provides for specific penalties for violations of particular sections of various chapters under Title XXI.

M.G.L. c. 149 § 52C relates to personnel records kept by employers.

M.G.L. c. 149 § 148B sets conditions under which an individual performing services is considered an employee for the purposes of M.G.L. cc. 149 and 151.

M.G.L. c. 149 § 190(i) relates to the privacy rights of domestic workers.

M.G.L. c. 150A § 2 defines “labor organization” for the purposes of regulating labor relations generally.

M.G.L. c. 150E § 1 defines “labor organization” for the purposes of regulating labor relations for public employees.

M.G.L. c. 151B prohibits certain forms of employment discrimination.

M.G.L. c. 272 § 99 is the commonwealth’s wiretap act.

**See Senate Filing:** S. 35

**Executive Summary:** Establishes requirements for employers using electronic monitoring tools, mandating that such tools serve legitimate business purposes, be narrowly tailored, and require written notice and employee consent. Requires independent impact assessments for both electronic monitoring systems and automated employment decision tools to evaluate potential discrimination, bias, and legal compliance issues. Employers are prohibited from making employment decisions based primarily on automated systems or monitoring data alone, and must implement meaningful human oversight with consideration of additional factors beyond algorithmic outputs. Restricts government agencies from using automated decision systems without

specific legal authorization and requires impact assessments for any such systems that affect public benefits.

## **Legislative History: New File**

### **Summary:**

Establishes comprehensive definitions for key terms including "Automated Decision System (ADS)," "electronic monitoring tool," and "employee information"

"Automated Decision System (ADS)," any computational process, automated system, or algorithm utilizing machine learning, statistical modeling, data analytics, artificial intelligence, or similar methods that issues an output, including a score, classification, ranking, or recommendation, that is used to assist or replace human decision making on decisions that impact natural persons. "Automated decision tool" does not include a tool that does not assist or replace employment decision processes and that does not materially impact natural persons, including, but not limited to, a junk email filter, firewall, antivirus software, calculator, spreadsheet, database, data set, or other compilation of data.

"Meaningful human oversight", a process that includes, at a minimum:

- (a) the designation of at least one internal reviewer with sufficient expertise in the operation of automated employment decision tools, sufficient familiarity with the results of the most recent impact assessment of the employer's tool, and sufficient understanding of the outputs of the employer's tool to identify potential biases, errors, discrepancies, or inaccuracies produced by the tool;
- (b) that sufficient authority and discretion be granted to the designated internal reviewer to dispute, rerun, or recommend the rejection of an output suspected to be invalid, inaccurate, or discriminatory; and
- (c) that the designated internal reviewer has the time and resources available to review and evaluate the tool output

### ***Section 2: Electronic Monitoring Tools***

Requires employers to have legitimate purposes for using monitoring tools and obtain written consent from employees. This section outlines the permissible purposes for monitoring (quality control, security, health and safety etc). Allows for the Department of Labor to establish additional permissible purposes.

Includes implementation requirements for electronic monitoring tools that promote data minimization. This includes using the least invasive methods possible and tools must be narrowly tailored to accomplish their legitimate purpose.

Mandates employers maintain records of collected data for three years and implement proper security measures. Data must be deleted once purpose is achieved.

Establishes notice and informed consent requirements for monitoring tools. Privacy notices must include detailed information about the purpose for monitoring and how

data will be used, data collection and retention methods, and security and storage methods. Prohibits decisions primarily based on monitored data without human oversight.

#### Prohibited Practices:

- Cannot monitor off-duty employees
- Cannot collect health/demographic information
- Cannot monitor private areas (bathrooms, break rooms, etc.)
- Cannot use facial recognition, gait/voice/emotion recognition (except for security purposes)
- Cannot require implanted devices

#### *Section 3: Automated Decision Tools (regulates the use of automated tools for employment decisions)*

Requires annual impact assessments before implementing automated decision tools  
Impact assessments must be done by an independent auditor.

Must evaluate:

- Scientific validity
- Potential discrimination/bias
- Accessibility issues
- Privacy impacts
- Legal compliance

Mandates evaluation of potential discriminatory impacts and accessibility issues, including a requirement to address any disparate impacts and documenting remediation steps.

Requires employers to maintain documentation of tool design and development.

#### *Section 4: Notice Requirements*

Employers must provide 10-day notice before using automated decision tools. Notice must include a clear explanation of the tool's purpose and the data collection methods. Information must be accessible to employees in multiple languages and formats.

#### *Section 5: Restricted Uses*

Prohibits use of automated tools that violate labor or civil rights laws. Requires meaningful human oversight in employment decisions. Bans use of facial recognition, gait, or emotion recognition technologies, still allowing for certain biometrics collection for security purposes.

#### *Section 6: Anti-retaliation Provisions (protections for workers who disagree with AI outputs)*

Protects employees who refuse to follow AI system outputs that they believe could cause harm.

Requires employees to notify supervisors of potential issues with AI systems and outputs. Ensures protection for good faith decisions based on professional judgment.

Provides for Attorney General rulemaking. Provides for the Division of Licensing to create additional rules and procedures.

### *Section 7: Civil Claims*

Establishes the right to file civil action against employers for violations. Provides for damages including restitution and punitive damages. Allows for recovery of attorney fees and costs.