SENATE, No. 1402

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED FEBRUARY 10, 2022

Sponsored by:
Senator NIA H. GILL
District 34 (Essex and Passaic)

SYNOPSIS
    Prohibits certain discrimination by automated decision systems.

CURRENT VERSION OF TEXT
    As introduced.

1   **AN ACT** concerning discrimination and automated decision systems
2   and supplementing P.L.1945, c.169 (C.10:5-1 et seq.).
3
4   **BE IT ENACTED** *by the Senate and General Assembly of the State*
5   *of New Jersey:*
6
7   1. As used in this act:
8   "Automated decision system" means a computational process,
9 including one derived from machine learning, statistics, or other
10 data processing or artificial intelligence techniques, that makes a
11 decision or facilitates human decision making.
12   "Health care provider" means an individual or entity, which,
13 acting within the scope of its licensure or certification, provides
14 health care services, and includes, but is not limited to, a physician,
15 dentist, nurse, or other health care professional whose professional
16 practice is regulated pursuant to Title 45 of the Revised Statutes,
17 and a health care facility licensed pursuant to P.L.1971, c.136
18 (C.26:2H-1 et seq.).
19   "Member of a protected class" means an individual who has one
20 or more characteristics, including race, creed, color, national origin,
21 nationality, ancestry, age, marital status, civil union status, domestic
22 partnership status, affectional or sexual orientation, genetic
23 information, pregnancy, sex, gender identity or expression,
24 disability or atypical hereditary cellular or blood trait of any
25 individual, or liability for service in the armed forces, for which the
26 individual is provided protections against discriminatory practices
27 pursuant to section 11 of P.L.1945, c.169 (C.10:5-12).
28
29   2. A person, bank, banking organization, credit reporting
30 agency, mortgage company, or other financial institution, lender or
31 credit institution involved in the making or purchasing of any loan
32 or extension of credit shall not discriminate through the use of an
33 automated decision system against any person or group of persons
34 who is a member of a protected class.
35   An automated decision system shall be discriminatory pursuant
36 to this section if the system selects individuals who are members of
37 a protected class for participation or eligibility for granting,
38 withholding, extending, modifying, renewing, or purchasing, or in
39 the fixing of the rates, terms, conditions or provisions of any loan,
40 extension of credit or financial assistance, at a rate that is
41 disproportionate to the rate at which the system selects individuals
42 who are not members of the protected class.
43
44   3. An insurance company licensed, registered, or otherwise
45 authorized to do business under the laws of this State shall not
46 discriminate through the use of an automated decision system
47 against any person or group of persons who is a member of a
48 protected class.

An automated decision system shall be discriminatory pursuant to this section if the system selects individuals who are members of a protected class for participation or eligibility for insurance or continuance of insurance, limiting the amount, extent, or kind of insurance coverage, or charging a different rate for the same insurance coverage, at a rate that is disproportionate to the rate at which the system selects individuals who are not members of the protected class.

4.   A health care provider shall not discriminate through the use of an automated decision system against any person or group of persons who is a member of a protected class.

An automated decision system shall be discriminatory pursuant to this section if the system selects individuals who are members of a protected class for participation or eligibility for health care services at a rate that is disproportionate to the rate at which the system selects individuals who are not members of the protected class.

5.   A violation of this act shall be unlawful discrimination and a violation of section 11 of P.L.1945, c.169 (C.10:5-12).

6.   This act shall take effect on the first day of the third month next following enactment.

STATEMENT

This bill provides that it is unlawful discrimination and a violation of the law against discrimination for an automated decision system to discriminate against any person or group of persons who is a member of a protected class in:

(1) the granting, withholding, extending, modifying, renewing, or purchasing, or in the fixing of the rates, terms, conditions or provisions of any loan, extension of credit or financial assistance;

(2) refusing to insure or continuing to insure, limiting the amount, extent or kind of insurance coverage, or charging a different rate for the same insurance coverage provided to persons who are not members of the protected class; or

(3) the provision of health care services.

Under the bill, "automated decision system" means a computational process, including one derived from machine learning, statistics, or other data processing or artificial intelligence techniques, that makes a decision or facilitates human decision making.

An automated decision system is discriminatory if the system selects individuals who are members of a protected class for participation or eligibility for services at a rate that is

1   disproportionate to the rate at which the system selects individuals
2   who are not members of the protected class.
3   As used in the bill, a "member of a protected class" is an
4   individual who has one or more characteristics, including race,
5   creed, color, national origin, nationality, ancestry, age, marital
6   status, civil union status, domestic partnership status, affectional or
7   sexual orientation, genetic information, pregnancy, sex, gender
8   identity or expression, disability or atypical hereditary cellular or
9   blood trait of any individual, or liability for service in the armed
10   forces, for which the individual is provided protections against
11   discriminatory practices pursuant to section 11 of P.L.1945, c.169
12   (C.10:5-12).