

## 2022 BSA State Legislative Summary: ARTIFICIAL INTELLIGENCE

- In 2022, there was a 46 percent increase in terms of the number of Artificial Intelligence (AI) and Automated Decision Systems (ADS) bills that were introduced compared to last year.
- The 125 introduced AI and ADS bills represented 5 percent of all BSA tracked bills during the 2022 sessions and resulted in 6 pieces of enacted legislation.
- Over a third of all AI bills were introduced in New York, New Jersey, or Massachusetts. No AI bills in those states have been enacted to date.
- Most AI legislation in 2022 focused on government or law enforcement use of AI, AI in employment, discrimination, or personal rights related to AI.
- Enacted AI bills primarily created commissions and task forces in Colorado, New Hampshire, and Vermont; Idaho enacted a new law ensuring environmental elements, inanimate objects, nonhuman animals, and artificial intelligence shall not be granted personhood.
- In 2023, we expect that Washington, DC's "Stop Discrimination by Algorithms Act" and the NY state legislature's consideration of AI hiring legislation will drive the debate around AI regulation in the states.

Tremendous advances in AI are quickly transforming expectations about how the technology may reshape the world. However, the majority of state and local bills focused on a narrow subset of AI use cases involving law enforcement and facial recognition. Over 100 bills were introduced throughout the 2022 sessions in addition to nearly 120 bills that carried over from 2021. While legislation related to AI and ADS accounted for less than 5 percent of bills tracked by BSA in 2022, there was a 46 percent increase over last session in bill volume.

Democratic-led legislatures were more likely to look at AI and discrimination or individual rights (Massachusetts, New Jersey, Illinois, New York, Rhode Island, and Washington); notable exceptions include Oklahoma and Idaho. Republican legislators were far more likely to introduce measures about AI and social media platforms notwithstanding a measure introduced in Virginia's Democratic controlled Senate and several bills seeking to regulate social media included AI related provisions in California.

The only pieces of AI legislation enacted this year were related to law enforcement or the creation of commissions/committees to examine the impact of AI. The New Hampshire AI Commission has been tasked with studying the need for anti-discrimination legislation within the financial services

industry, while the commissions in Colorado and Vermont will have broader objectives. Colorado's commission will examine which state agencies are using facial recognition and provide access to data collected by those services, ethical considerations of the use of this technology as well as their own recommendations. Vermont has created a Division of Artificial Intelligence tasked with crafting a state code of ethics on the use of AI and making recommendations to the legislature, as well as a permanent full-time position within the state government to "serve as an expert on artificial intelligence use and oversight within State government." Bills to limit the use of facial recognition by government were introduced almost exclusively by Democratic legislators, even in Republican legislatures. However, the use of facial recognition by law enforcement remained a more bipartisan issue, including a Republican bill signed by Democratic Governor Andy Beshear of Kentucky.

Several states considered the opportunities presented by AI, including Hawaii, Massachusetts, Nebraska, and New Jersey, although no legislation has been enacted in 2022. These states considered legislation to incentivize AI education and workforce development. Democrat-controlled legislatures examined AI and discrimination in Illinois, Massachusetts, New Jersey, and New York. Oklahoma moved legislation to prohibit social credit systems in insurance in an effort similar to legislation in New York and Rhode Island. BSA anticipates that, pending 2022 state elections, that more progressive Democrat state legislatures, such as California, Illinois, Massachusetts, and New York will reintroduce similar legislation in 2023. Illinois will likely take it a step farther as regulating "predictive data analytics" in creditworthiness, as such legislation passed the first chamber in the previous session.

In 2023, the expectation is that state legislatures, especially California, Washington, DC, Illinois, Maryland, Massachusetts, New Jersey, and New York, will examine AI's impact on individual rights, government use of facial recognition, and the role of AI in the state's economy. In Washington, DC, the Council is expected to take up the "Stop Discrimination by Algorithm Act" in a September hearing. That bill would require companies to perform annual audits "in consultation" with independent third parties to evaluate potential discriminatory impact of AI systems used to make decisions related to credit, education, employment, housing and public accommodation. It would also require companies would be required to share key details about their AI systems with the Washington, DC Attorney General's Office, including the data and methodologies used to train the system. The bill would also create a private right of action. In New York, the State Assembly and Senate are likely to resume consideration of bills that would require audits of AI systems used in the employment context. The overall volume in AI bills should increase at a similar or faster rate, despite the predicted legislator turnover in the November 2022 state elections.

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