STATE OF CALIFORNIA
LEGISLATIVE COUNSEL BUREAU
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

Senate Bill No. 947

CHAPTER 859

An act to add Part 5.5.5 (commencing with Section 1520) to Division 2 of the Labor Code, relating to employment.

[Approved by Governor September 30, 2026. Filed with Secretary of State September 30, 2026.]

LEGISLATIVE COUNSEL'S DIGEST

SB 947, McNerney. Employment: automated decision systems.

Existing law requires the Department of Technology to conduct, in coordination with other interagency bodies as it deems appropriate, a comprehensive inventory of all high-risk automated decision systems (ADS) that have been proposed for use, development, or procurement by, or are being used, developed, or procured by, any state agency.

Existing law establishes the Labor and Workforce Development Agency, which is composed of various departments responsible for protecting and promoting the rights and interests of workers in California, including the Division of Labor Standards Enforcement, led by the Labor Commissioner, within the Department of Industrial Relations.

This bill, beginning on July 1, 2027, would prohibit an employer, as defined, from using an ADS to perform certain functions and would limit the purposes for and way in which an ADS may be used. The bill would, when an employer primarily uses an ADS to make a disciplinary or termination decision, authorize an employee to request, and require an employer to provide, a description of the employee's own data primarily used by an ADS to make a disciplinary or termination decision, as specified. The bill would require an employer that primarily relied upon an ADS to make a disciplinary or termination decision to provide the affected employee with a written postuse notice, as specified.

This bill would prohibit an employer from discharging, threatening to discharge, demoting, suspending, or in any manner discriminating or retaliating against any employee for taking certain actions asserting their rights under the bill. The bill would authorize the Labor Commissioner to enforce the bill's provisions and also authorize a public prosecutor to bring a civil enforcement action, as specified. The bill would set forth specified types of relief that a plaintiff may seek and specified penalties that an employer that violates these provisions is subject to, including a $500 civil penalty per violation.

This bill would also provide that an employer who complies with the requirements related to notice in this bill is not required to comply with any substantially similar provisions under any other state law, except as specified. The bill would not apply to parties covered by a valid collective bargaining

agreement if the agreement contains specified information, including an explicit waiver of the bill's provisions. The bill would provide that it does not prohibit the use of an automated decision system relating to the development of aircraft for use in the national airspace or the development of products or services for national security, military, space, or defense purposes, if the use of an automated decision system is reasonably necessary to comply with the federal statute, the federal regulation, or the binding federal contract, as specified.

The bill would include a statement that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

This bill would declare that its provisions are severable.

The people of the State of California do enact as follows:

SECTION 1. Part 5.5.5 (commencing with Section 1520) is added to Division 2 of the Labor Code, to read:

PART 5.5.5. AUTOMATED DECISION SYSTEMS IN THE WORKPLACE

Chapter 1. Definitions

1520. For purposes of this part, the following shall apply:

(a) "ADS output" means any information, data, assumptions, predictions, scoring, recommendations, decisions, or conclusions generated by an ADS.

(b) "Artificial intelligence" means an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments.

(c) "Automated decision system" or "ADS" means any computational process derived from machine learning, statistical modeling, data analytics, or artificial intelligence that issues simplified output, including a score, classification, or recommendation, that is used to assist or replace human discretionary decisionmaking and materially impacts natural persons. An automated decision system does not include a spam email filter, firewall, antivirus software, identity and access management tools, calculator, database, dataset, or other compilation of data.

(d) (1) "Employ" means to engage, suffer, or permit to work.

(2) "Employee" means any person employed by an employer.

(3) (A) "Employer" means a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person.

(B) "Employer" includes all branches of state government, including all cities, counties, charter counties, municipalities, charter municipalities, cities and counties, special districts, transit districts, the University of

California upon agreement by the regents, the California State University, community college districts, school districts, or any other governmental entity.

(C) "Employer" includes a labor contractor of a person defined as an employer under subparagraph (A).

(D) "Employer" includes a farm labor contractor as defined in Section 1682 or foreign labor contractor as defined in Section 9998.1 of the Business and Professions Code.

(4) "Employee data" means any information that identifies, relates to, or describes an employee, regardless of how the information is collected, inferred, or obtained.

(e) "Federal government" shall have the same meaning as set forth in Section 52008 of the Government Code.

Chapter 2. Employer Requirements

1522. (a) An employer shall not use an ADS to do any of the following:

(1) Prevent compliance with or violate any federal, state, or local labor, occupational health and safety, employment, or civil rights laws or regulations.

(2) Infer an employee's protected status under Section 12940 of the Government Code.

(3) Predict and take adverse action against a worker for exercising their legal rights, including, but not limited to, rights guaranteed by state and federal employment and labor law.

(b) (1) An employer shall not rely solely on an ADS when making a disciplinary or termination decision.

(2) If an employer primarily relies upon an ADS output to make a disciplinary or termination decision, the employer shall direct a human to corroborate the decision using data that was collected or used to produce the ADS output or other relevant corroborating or supporting information. For purposes of this paragraph, "corroborating or supporting information" may include, but is not limited to, any of the following:

(A) Supervisory or managerial evaluations.

(B) Personnel files.

(C) Work product of employees.

(D) Peer reviews.

(E) Witness interviews, that may include relevant online customer reviews.

(c) If an employer cannot corroborate the ADS output, or the human reviewer has concluded that the ADS output is inaccurate, incomplete, or misleading, the employer shall not use the ADS output to make a disciplinary or termination decision.

(d) An employee shall have the right to request, and an employer shall provide, a meaningful, objective description of the employee's own data

used by the ADS when an employer has primarily used an ADS to make a disciplinary or termination decision.

(e) For purposes of safeguarding the privacy rights of consumers, employees, and individuals, when an employer is required to provide a description of employee data pursuant to this part, that description shall be provided in a manner that anonymizes the customer's, other employee's, or individual's personal information.

Chapter 3. Automated Decision System Postuse Notice

1524. (a) An employer that primarily relied upon an ADS to make a disciplinary or termination decision shall provide the affected employee with a written postuse notice at the time the employer informs the employee of the decision. The notice shall comply with all of the following:

(1) It shall be written in plain language as a separate, stand-alone communication.

(2) It shall be in the language in which routine communications and other information are provided to employees.

(3) It shall be provided via a simple and easy-to-use method, including an email, hyperlink, or other written format.

(b) The postuse notice shall contain all of the following information:

(1) That the employer primarily relied upon an ADS to make a disciplinary or termination decision with respect to the employee.

(2) That a human reviewed the decision and corroborated the ADS output.

(3) Contact information for a human that the employee may contact for more information about the decision and the employee's right to access a description of the employee's own data used by the ADS when an employer has primarily used an ADS to make a disciplinary or termination decision.

(4) That the employer is prohibited from retaliating against the employee for exercising their rights under this part.

Chapter 4. Enforcement

1526. An employer shall not discharge, threaten to discharge, demote, suspend, or in any manner discriminate or retaliate against any employee for using or attempting to use their rights under this part, filing a complaint with the Labor Commissioner, alleging a violation of this part, cooperating in an investigation or prosecution of an alleged violation of this part, or any action taken by the employee to invoke or assist in any manner the enforcement of this part, or for exercising or attempting to exercise any right protected under this part.

1526.1. (a) The Labor Commissioner may enforce this part, including investigating an alleged violation, and ordering appropriate temporary relief to mitigate a violation or maintain the status quo pending the completion of a full investigation or hearing through the procedures set forth in Section 98.3, 98.7, 98.74, or 1197.1, including issuing a citation against an employer

who violates this part and filing a civil action. If a citation is issued, the procedures for issuing, contesting, and enforcing judgments for citations and civil penalties issued by the Labor Commissioner shall be the same as those set forth in Section 98.74 or 1197.1, as applicable.

(b) This part may also be enforced by a public prosecutor pursuant to Chapter 8 (commencing with Section 180) of Division 1.

(c) In any civil action or administrative proceeding brought pursuant to this part for a violation of subdivision (b) or (c) of Section 1522, once it has been demonstrated that an ADS was used to make a disciplinary or deactivation decision, the employer must demonstrate that the employer did not primarily rely upon an ADS or that the employer complied with Sections 1522 and 1524 when making the disciplinary or termination decision.

(d) In any civil action brought pursuant to subdivision (a) or (b) in superior court in any county wherein the violation in question is alleged to have occurred, or wherein the person resides or transacts business, the petitioner may seek appropriate temporary or preliminary injunctive relief, including punitive damages, and reasonable attorney's fees and costs in addition to other remedies identified in this section as part of any such action for damages.

(e) An employer who violates this part shall be subject to a civil penalty of five hundred dollars ($500) per violation.

1526.2. This part does not preempt any city, county, or city and county ordinance that provides equal or greater protection to employees who are covered by this part.

1526.3. Except as set forth in Section 1526.4, an employer who complies with the requirements related to notice under this part is not required to comply with any substantially similar notice provisions related to automated decision systems used for employment-related decisions required under any other state law. This section shall not apply to any quotas, as defined in Section 2100, or any other automated standards applied to working conditions of employees.

1526.4. Notwithstanding Section 1526.3, an employer that is a business subject to the California Consumer Privacy Act of 2018 (Title 1.81.5 (commencing with Section 1798.100) of Part 4 of Division 3 of the Civil Code) is subject to any privacy-related automated decisionmaking technology regulation duly adopted by the California Privacy Protection Agency pursuant to Section 1798.185 and subdivision (b) of Section 1798.199.40 of the Civil Code.

1526.5. The provisions of this part shall not apply to parties covered by a collective bargaining agreement if the agreement explicitly waives this part in clear and unambiguous terms, expressly provides for the wages or earning, working conditions, and other terms and conditions of work, and provides protection from algorithmic management.

1526.6. (a) This part shall not apply to the use of an automated decision system to the extent that use of the system is required by, or reasonably necessary to comply with, a federal statute, federal regulation, or binding federal contract relating to either of the following:

(1) The development of aircraft for use in the national airspace.

(2) The development of products or services for national security, military, space, or defense purposes.

(b) Subdivision (a) applies only to the operations covered by a federal statute, federal regulation, or binding federal contract outlined in paragraph (1) or (2) of that subdivision.

1526.7. This part shall become operative on July 1, 2027.

SEC. 2. The Legislature finds and declares that this act addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act adding Part 5.5.5 (commencing with Section 1520) to Division 2 of the Labor Code applies to all cities, including charter cities.

SEC. 3. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

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