Senate Bill No. 896

CHAPTER 928

An act to add Chapter 5.9 (commencing with Section 11549.63) to Part 1 of Division 3 of Title 2 of the Government Code, relating to artificial intelligence.

LEGISLATIVE COUNSEL'S DIGEST

SB 896, Dodd. Generative Artificial Intelligence Accountability Act.

Existing law requires the Secretary of Government Operations to develop a coordinated plan to, among other things, investigate the feasibility of, and obstacles to, developing standards and technologies for state departments to determine digital content provenance. For the purpose of informing that coordinated plan, existing law requires the secretary to evaluate, among other things, the impact of the proliferation of deepfakes, defined to mean audio or visual content that has been generated or manipulated by artificial intelligence that would falsely appear to be authentic or truthful and that features depictions of people appearing to say or do things they did not say or do without their consent, on state government, California-based businesses, and residents of the state.

This bill, the Generative Artificial Intelligence Accountability Act, would, among other things, require the Department of Technology, under the guidance of the Government Operations Agency, the Office of Data and Innovation, and the Department of Human Resources, to update the report to the Governor, as required by Executive Order No. N-12-23, as prescribed. The bill would require the Office of Emergency Services to, as appropriate, perform a risk analysis of potential threats posed by the use of generative artificial intelligence to California's critical infrastructure, including those that could lead to mass casualty events and would require a high-level summary of the analysis be provided annually to the Legislature.

This bill would also require a state agency or department that utilizes generative artificial intelligence to directly communicate with a person regarding government services and benefits to ensure that those communications include both (1) a disclaimer that indicates to the person that the communication was generated by generative artificial intelligence and (2) information, as specified, describing how the person may contact a human employee of the state agency or department.

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

SECTION 1.   This act shall be known as the Generative Artificial Intelligence Accountability Act.

SEC. 2.   Chapter 5.9 (commencing with Section 11549.63) is added to Part 1 of Division 3 of Title 2 of the Government Code, to read:

Chapter 5.9. Generative Artificial Intelligence Tools

11549.63.   The Legislature finds and declares all of the following:

(a) The Legislature recognizes the tremendous potential of artificial intelligence (AI) to improve the lives of its citizens and the functioning of government. However, the Legislature also recognizes that the use of AI must be guided by principles of fairness, transparency, privacy, and accountability to ensure that the rights and opportunities of all Californians are protected in the age of artificial intelligence.

(b) The Legislature further recognizes that generative artificial intelligence (GenAI) enables significant, beneficial uses through its unique capabilities, but GenAI raises novel risks compared to conventional AI across critical areas, including democratic and legal processes, biases and equity, public health and safety, and the economy, and requires measures to address insufficiently guarded governmental systems and unintended or emergent harmful effects from this technology. Additionally, because humans have explicit and implicit biases built into our society, GenAI has the capacity to amplify these biases as it learns from input data. Therefore, it is imperative to consider the implications on Californians of, among other categories, different regions, income, races, ethnicities, gender, ages, religions, abilities, and sexual orientation for all GenAI inputs, outputs, and products for both prioritizing implementations that may promote equity and guarding against bias and other negative impacts.

(c) No individual or group should be discriminated against on the basis of race, gender, age, religion, sexual orientation, or any other protected characteristic in the design, development, deployment, or use of AI systems. The unprecedented speed of innovation and deployment of GenAI technologies necessitates proactive guardrails to protect against potential risks or malicious uses, including, but not limited to, bioterrorism, cyberattacks, disinformation, deception, violation of privacy, and discrimination or bias.

(d) The Legislature affirms the importance of transparency in the use of GenAI systems. The public has the right to know when they are interacting with GenAI being used by the state and to have an accessible identification of that interaction.

(e) The Legislature recognizes that the use of GenAI systems must be consistent with the protection of privacy and civil liberties and must be guided by a commitment to equity and social justice. It is the intent of the Legislature in enacting this legislation that all GenAI systems be designed

and deployed in a manner that is consistent with state and federal laws and regulations regarding privacy and civil liberties and minimizes bias and promotes equitable outcomes for all Californians.

(f) This act, in addition to the 2022 White House Blueprint for an AI Bill of Rights, executive guidance from the governor, statutory or regulatory requirements, and evolving best practices should guide the decisionmaking of state agencies, departments, and subdivisions in the review, adoption, management, governance, and regulations of automated decisionmaking technologies.

(g) Public-private cross-sectional partnerships should be established to train students to meet the GenAI workforce development needs of the state, including providing instruction on AI and related ethical, privacy, and security considerations while advancing research on best practices. Further, there is the need for the state to recruit, retain, and train GenAI professionals in certain state jobs, and agencies should collaborate to facilitate a pipeline and infrastructure to accomplish that goal.

(h) State agencies, departments, and boards should utilize their authority to protect consumers, patients, passengers, and students from fraud, discrimination, and threats to privacy and to address other risks that may arise from the use of GenAI, including risks to financial stability. State agencies, departments, and boards should consider rulemaking and emphasize or clarify if existing regulations and guidance apply to GenAI or other automated decisionmaking systems.

11549.64. As used in this chapter:

(a) "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.

(b) "Generative artificial intelligence" or "GenAI" means an artificial intelligence system that can generate derived synthetic content, including text, images, video, and audio that emulates the structure and characteristics of the system's training data.

(c) "Person" means a natural person.

(d) "Report" means the report to the Governor required by Executive Order No. N-12-23.

11549.65. (a) The Department of Technology, under the guidance of the Government Operations Agency, the Office of Data and Innovation, and the Department of Human Resources, shall update the report, as needed, to respond to significant developments and shall, as appropriate, consult with academia, industry experts, and organizations that represent state exclusive employee representatives.

(b) (1) The Office of Emergency Services shall, as appropriate, perform a risk analysis of potential threats posed by the use of GenAI to California's critical infrastructure, including those that could lead to mass casualty events.

(2) The analysis required by paragraph (1) shall be provided to the Governor, and, if appropriate, shall include recommendations reflecting changes to artificial intelligence technology, its applications, and risk

management, including further private actions, administrative actions, and collaboration with the Legislature to guard against potential threats and vulnerabilities.

(3) A high-level summary of the analysis required by paragraph (1) shall be submitted annually to the Legislature.

(c) Any state agency or department shall consider procurement and enterprise use opportunities in which GenAI can improve the efficiency, effectiveness, accessibility, and equity of government operations consistent with the Government Operations Agency, the Department of General Services, and the Department of Technology's policies for public sector GenAI procurement.

(d) Legal counsel for any state agency or department shall consider any potential impact of GenAI on regulatory issues under the respective agency's or department's authority and recommend necessary updates, if appropriate, as a result of this evolving technology.

11549.66. A state agency or department that utilizes GenAI to directly communicate with a person regarding government services and benefits shall ensure that those communications include both of the following:

(a) A disclaimer that indicates to the person that the communication was generated by GenAI.

(1) For written communications involving physical and digital media, including letters, email, and other occasional messages, the disclaimer shall appear prominently at the start of each communication.

(2) For written communications involving continuous online interactions, including interactions with chatbots, the disclaimer shall be prominently displayed throughout the interaction.

(3) For audio communications, the disclaimer shall be provided verbally at the start and end of the interaction.

(4) For video communications, the disclaimer shall be prominently displayed throughout the interaction.

(b) Information, or a link to an internet website containing information, describing how the person may contact a human employee of the state agency or department.

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