

January 15, 2026

Senate Standing Committee on Internet and Technology  
250 Broadway, 19th Floor  
New York, NY 10007

Dear Chair Gonzalez and Members of the Committee,

EPIC writes in support of S1169A, the New York AI Act. We commend Senator Gonzalez for sponsoring this legislation and for her continued leadership on tech issues. New York has the opportunity to enact innovative policy that both protects the rights and privacy of New Yorkers and encourages technological innovation, just as the state has done over the years with the passage of many tech laws.

The Electronic Privacy Information Center (EPIC) is an independent, nonpartisan, non-profit research organization in Washington, D.C., established in 1994 to protect privacy, freedom of expression, and democratic values in the information age.<sup>1</sup> EPIC has advocated for strong AI and privacy laws at both the state and federal level for many years.<sup>2</sup>

In my testimony, I will discuss why it is so critical that New York take immediate action to place commonsense regulations on the development and use of high-risk AI systems and how advancing S1169A would be a significant step toward protecting New York residents.

## **I. AI regulation is urgently needed, and New York should act now.**

Legislation like S1169A that seeks to address the harms of companies using AI systems in making important decisions about people's lives is urgently needed. New York residents are being harmed now due to the unregulated use of AI systems in life-altering decisions. Both public and private entities use high-risk AI systems in making decisions about the most sensitive aspects of people's lives: housing, employment, education, health care, finances, access to government services, and interactions with law enforcement or the criminal justice system. Passing this bill is essential to ensure that the AI systems used in making these key decisions about the lives of New

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<sup>1</sup> EPIC, *About EPIC*, <https://epic.org/about/>.

<sup>2</sup> See e.g., Protecting America's Consumers: Bipartisan Legislation to Strengthen Data Privacy and Security: Hearing before the Subcomm. on Consumer Protection & Comm. of the H. Comm. on Energy & Comm., 117th Cong. (2022) (testimony of Caitriona Fitzgerald, Deputy Director, EPIC), [https://epic.org/wp-content/uploads/2022/06/Testimony\\_Fitzgerald\\_CPC\\_2022.06.14.pdf](https://epic.org/wp-content/uploads/2022/06/Testimony_Fitzgerald_CPC_2022.06.14.pdf); *Governor Moore Signs Maryland Online Data Privacy Act*, EPIC (May 9, 2024), <https://epic.org/governor-moore-signs-maryland-online-data-privacy-act/>; *EPIC Testifies in Support of Maryland Bill on High-Risk AI*, EPIC (Feb. 27, 2025), <https://epic.org/epic-testifies-in-support-of-maryland-bill-on-high-risk-ai/>.

York residents are transparent, nondiscriminatory, and accurate—and that individuals have the information and ability to hold companies accountable if AI systems they use do cause harm.

The use of AI systems has led to the wrongful denial of people’s access to housing,<sup>3</sup> health care,<sup>4</sup> medically necessary health insurance coverage,<sup>5</sup> job opportunities,<sup>6</sup> loans,<sup>7</sup> public benefits,<sup>8</sup> and more. The use of AI in making important decisions is a widespread practice that affects most Americans. Low-income individuals are even more likely to have important decisions about their lives made using AI; a recent report by TechTonic Justice found that virtually all 92 million low-income Americans have “some basic aspect of their lives decided by AI.”<sup>9</sup>

Right now, New Yorkers have no way to know whether companies are using AI in making these life-altering decisions about them. New Yorkers also have no way to know how these AI systems work, how much an entity relied on AI to make a decision about them, or whether the AI system was even processing accurate information about them to generate its output. This information asymmetry between companies developing and using AI and the individuals being subjected to AI—along with the “black box” nature of AI system—is one reason S1169A is essential to protect New Yorkers. S1169A requires real transparency from developers and deployers about AI systems and gives important rights to New York residents who are subject to decisions made using AI.

Research shows Americans are uncomfortable with companies using AI systems to make these kinds of decisions about their lives. According to a nationally representative survey conducted by Consumer Reports last year, the majority of American adults surveyed expressed concern over AI

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<sup>3</sup> Johana Bhuiyan, *She Didn’t Get an Apartment Because of an AI-Generated Score – and Sued to Help Others Avoid the Same Fate*, Guardian (Dec. 14, 2024), <https://www.theguardian.com/technology/2024/dec/14/saferent-ai-tenant-screening-lawsuit>.

<sup>4</sup> Ziad Obermeyer, Brian Powers, Christine Vogeli & Sendhil Mullainathan, *Dissecting Racial Bias in an Algorithm Used to Manage the Health of Populations*, Science (Oct. 25, 2019), <https://www.science.org/doi/10.1126/science.aax2342>.

<sup>5</sup> Elizabeth Napolitano, *UnitedHealth Uses Faulty AI to Deny Elderly Patients Medically Necessary Coverage, Lawsuit Claims*, CBS News (Nov. 20, 2023), <https://www.cbsnews.com/news/unitedhealth-lawsuit-ai-deny-claims-medicare-advantage-health-insurance-denials/>.

<sup>6</sup> Charlotte Lytton, *AI Hiring Tools May Be Filtering out the Best Job Applicants*, BBC (Feb. 16, 2024), <https://www.bbc.com/worklife/article/20240214-ai-recruiting-hiring-software-bias-discrimination>.

<sup>7</sup> Kori Hale, *A.I. Bias Caused 80% of Black Mortgage Applicants to Be Denied*, Forbes (Sept. 2, 2021), <https://www.forbes.com/sites/korihale/2021/09/02/ai-bias-caused-80-of-black-mortgage-applicants-to-be-denied/>; Emmanuel Martinez & Lauren Kirchner, *The Secret Bias Hidden in Mortgage-Approval Algorithms*, The Markup (Aug. 25, 2021), <https://themarkup.org/denied/2021/08/25/the-secret-bias-hidden-in-mortgage-approval-algorithms>.

<sup>8</sup> Rachana Pradhan, Samantha Liss & KFF Health News, *A Tennessee Mom Lost Medicaid After the State Launched a Deloitte-Run System that Managed Eligibility. Then Her Life Turned Upside Down*, Fortune (June 24, 2024), <https://fortune.com/2024/06/24/a-tennessee-mom-lost-medicaid-after-the-state-launched-a-deloitte-run-system-that-managed-eligibility-then-her-life-turned-upside-down/>.

<sup>9</sup> Kevin De Liban, *Inescapable AI: The Ways AI Decides How Low-Income People Work, Live, Learn, and Survive*, TechTonic Justice (Nov. 2024), <https://www.techtonicjustice.org/reports/inescapable-ai>.

systems being used in making decisions in several important contexts covered by S1169A.<sup>10</sup> Specifically, 72% of U.S. adults would be uncomfortable with AI having a role in a job interview process; 66% would be uncomfortable with banks using AI to determine if they qualified for a loan; 69% would be uncomfortable with apartments, condos, or senior communities using AI to screen potential tenants; and 58% would be uncomfortable with hospitals using AI to help make health care decisions about diagnoses or treatment.<sup>11</sup> Research has also shown that the majority of Americans prefer government regulations that prioritize AI safety and fairness, **even if it slows innovation**.<sup>12</sup> This research shows that most Americans favor bills like S1169A that would ensure safer and more responsible AI development in spite of industry claims that such rules are onerous or would kill innovation.

The proliferation of opaque and unproven AI systems into the most sensitive aspects of people’s lives coupled with Americans’ overwhelming desire for safer and more secure technology makes it essential that the New York Senate act now to move forward with S1169A, which would put careful guardrails on the development and use of AI systems in consequential decisions and protect New Yorkers from harm.

## **II. S1169A would protect New Yorkers from many of the harms caused by the unregulated use of AI in high-stakes decisions about their lives.**

This bill would go a long way toward mitigating the harms outlined above. S1169A contains many provisions that would ensure that 1) any high-risk AI systems used in New York would be safer, fairer, and more accurate than they are now and 2) New Yorkers would be more knowledgeable about AI systems used to make decisions about them and how to take action against any unfair or inaccurate AI-based decisions.

### *A. S1169A would place important transparency requirements on developers and deployers of high-risk AI systems, giving New Yorkers valuable information about the AI systems used to make decisions about their lives.*

Right now, New York residents have no way to know whether companies are using AI in making decisions about their jobs, education, housing, health care, or finances. Even in instances where consumers do somehow know that companies are using AI, they have no ability or right to

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<sup>10</sup> *A.I./Algorithmic Decision-Making: Consumer Reports Nationally Representative Phone and Internet Survey, May 2024*, Consumer Reports Survey Group (July 9, 2024), <https://advocacy.consumerreports.org/wp-content/uploads/2024/07/CR-AES-AI-Algorithms-Report-7.25.24.pdf>.

<sup>11</sup> *Id.*

<sup>12</sup> *How Voters View AI Safety and Innovation*, Change Research, <https://changeresearch.com/how-voters-view-ai-safety-and-innovation/> (62% of U.S. voters believe that “The government should have strict rules to make AI safe and fair, even if it slows innovation and makes American companies less competitive globally”); Benedict Vigers & Justin Lall, *Americans Prioritize AI Safety and Data Security*, Gallup (Sept. 16, 2025), <https://news.gallup.com/poll/694685/americans-prioritize-safety-data-security.aspx?> (80% of U.S. adults believe that the government should “maintain rules for AI safety and data security, even if it means developing AI capabilities at a slower rate”).

know how the AI works, how much the company relied on AI to make its decision, what personal information was processed by the AI, or how the company monitors the AI for discrimination or inaccuracy. Passing S1169A would give New York residents access to this important information.

This bill would require developers and deployers of high-risk AI systems to provide important information about these AI systems to the public and to New Yorkers subject to decisions made using these systems. These required disclosures will increase transparency and reduce the “black box” nature of high-risk AI systems. Requiring AI developers and deployers to follow commonsense transparency and disclosure requirements is an important step toward ensuring AI systems will be safer and less likely to produce discriminatory or inaccurate results.

This increased transparency from the developers and deployers of these systems will also ease the burden on New York residents who have been discriminated against by a company using these systems. Having access to information about whether AI was used in making a consequential decision about them and how that system works is an essential step toward mitigating the current information asymmetry that exists between powerful companies and individual consumers. Armed with the information from disclosures required under this bill, New Yorkers will be able to hold companies that choose to use AI irresponsibly or unfairly accountable in court. This information will also make it easier for New Yorkers to exercise their new rights under this bill.

*B. S1169A would grant important rights to New York residents who are subject to decisions made by companies using high-risk AI systems.*

Importantly, S1169A would grant New York residents certain rights if an entity uses an AI system to make a consequential decision about them. Under this bill, deployers are required to inform people if they are going to be subject to a consequential decision made using a high-risk AI system, allow the individual the opportunity to opt out of such automated decision and to have the decision made by a human decisionmaker, and provide a process to appeal the decision and obtain meaningful human review. Providing these rights would give New Yorkers more information into how important decisions about their lives are made and ensure that they can opt out of or appeal automated decisions.

One way that S1169A could be strengthened to be more protective for consumers would be to require deployers to provide people with a clear, plain-language explanation of the decision. This notice would be most useful if it included the principal reasons for the decision, the degree to which the deployer relied on an AI system in making the decision, and the types and sources of data that were fed to the AI system. Requiring this type of disclosure would arm New Yorkers with a better understanding of whether to appeal a decision made by an AI system and further reduce the information asymmetry between individuals and companies making decisions about their lives.

*C. S1169A requires developers and deployers to implement essential testing and risk-management practices, making any high-risk AI systems in use in New York safer, fairer, and more accurate than they are now.*

In addition to required disclosures and new rights for individuals, this bill also outlines concrete steps companies that develop or use high-risk AI systems must take to increase the safety, fairness, and accuracy of these systems. This bill requires deployers and developers to conduct independent audits, submit reports to the Attorney General, and implement risk management

programs and policies. These measures are all best practices to ensure any AI system that companies use is safe, fair, and accurate.

In particular, EPIC supports the requirement that audits be conducted by independent third parties with no financial stake in the company or outcome of the audit. Independence is a vital component of any auditing or impact assessment requirement to avoid the problem of companies “grading their own homework.” Requiring independent, third-party audits is the best way to ensure that the full scope of risks to New Yorkers are considered and that the results are not clouded by self-interest. Independent testing is also something most Americans support—a recent Gallup survey showed that 72% of U.S. adults said that “independent experts” should conduct tests of new AI technologies before they are widely used, and only 37% said companies should be allowed to conduct their own testing.<sup>13</sup> In addition to the independence of audits, another essential provision is the requirement that audits be conducted regularly and upon any material changes to an AI system or the way it is used. This ongoing testing reduces the chances that the system will become less accurate over time or that changes in the way a company deploys a system will introduce a new risk that was not originally considered.

S1169A also requires developers and deployers of high-risk AI systems to submit reports with information about the AI system to the Attorney General. This affirmative reporting requirement serves several important purposes. First, because companies are required to affirmatively submit these reports to the AG, it incentivizes compliance with this bill. Requiring submission of a report provides the AG with a quick way to check whether a company has complied with the requirements of this bill. Second, the bill requires the AG to establish a public repository of these reports, which allows researchers, journalists, advocates, and the public access to information about what AI systems are being used in New York. This public transparency is yet another incentive to companies to ensure they are relying on safe and well-tested technologies and are conducting their due diligence into systems they are using to make consequential decisions about people’s lives.

Finally, S1169A requires developers and deployers using high-risk AI systems to establish and implement risk management programs. Risk management programs are a bedrock of cybersecurity practice and should be something most, if not all, companies covered under this bill already have. Because the bill also gives the Attorney General to promulgate rules about the requirements of the risk management program, the bill also provides the flexibility to allow companies to evolve as technology does while still ensuring New Yorkers and their personal data are protected.

*D. S1169A would ensure New Yorkers who have been harmed by algorithmic discrimination can successfully vindicate their rights in court.*

S1169A is a necessary step toward reinforcing New York’s consumer protection and civil rights laws as they apply to the use of AI. While existing laws, of course, apply to the use of AI, this bill would ease the burden on individuals in proving discrimination claims against companies that have discriminated against them by using an unsafe AI system in two ways: (1) making it clear that

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<sup>13</sup> Benedict Vigers & Justin Lall, *Americans Prioritize AI Safety and Data Security*, Gallup (Sept. 16, 2025), <https://news.gallup.com/poll/694685/americans-prioritize-safety-data-security.aspx>

disparate impact resulting from the use of AI is discrimination and (2) easing the burden of bringing a discrimination claim involving the use of AI by eliminating the need for a harmed individual to prove causation.

This bill's definition of algorithmic discrimination explicitly covers both disparate treatment and disparate impact based on a protected class. Ensuring disparate impact is covered in the context of decisions made using AI is essential because industry actors have argued that because AI does not have intent, companies cannot be held liable for AI-driven discrimination. However, regardless of whether the use of AI precludes intent, its use can nevertheless result in discrimination. For example, AI systems may be created to discover and classify workers on the basis of protected characteristics or to use seemingly neutral criteria that have a discriminatory impact. This has been made clear by numerous reports from journalists, researchers, and whistleblowers calling out problems with the development or use of AI systems that have resulted in bias and discrimination.

This bill would also make it easier for a plaintiff bringing a discrimination claim involving an automated decision to prove their case. First, without this bill's transparency requirements, New York residents may not even know an AI system was used in making a consequential decision about them. Second, even if they did know an AI system was used and they suspected that the system was producing discriminatory results, it would be exceedingly difficult for them to bring a discrimination claim under traditional civil rights laws. Because of the "black box" nature of AI, people who are subject to decisions made using high-risk AI systems often do not know why a certain decision was made; what personal information was fed to the AI; how the system weighed certain factors in producing its decision; or whether the system improperly relied on a protected classification, such as a person's race or sexual orientation, in producing its decision. This information asymmetry would make a plaintiff's burden of proving causation—that the adverse decision resulted from the AI system rejecting a plaintiff because of a trait protected by law—nearly impossible.

This bill would reduce these obstacles and ensure that New Yorkers are not discriminated against because of a faulty, biased, or inaccurate AI system. The transparency and disclosure obligations this bill would place on developers and deployers would arm New York residents with more of the information necessary to determine whether they have been discriminated against, and if they have, would ensure that they have the more of the information necessary to prove that discrimination in court.

Further, EPIC commends the bill author for including a private right of action, which is essential to ensuring New Yorkers can enforce their rights under this bill. Most consumer protection laws include a private right of action, and these provisions have historically made it possible to hold companies accountable violating individuals' rights. Private enforcement ensures that companies have strong financial incentives to meet their transparency and testing obligations under this bill. By allowing New Yorkers to vindicate their rights via a private right of action, S1169A gives consumers the same strong enforcement options against companies that have used AI systems to discriminate against them that they have had for many years for other violations of their rights as consumers, and we encourage the Legislature to retain this provision.

Finally, the provisions in Section 89-c creating presumptions during the motion to dismiss stage of a case are also useful in helping plaintiffs vindicate their rights in court. Because of the massive information asymmetries that exist between individuals and companies making important decisions about housing, health care, employment, and other spheres, it is exceedingly difficult for plaintiffs to have the information necessary in the early stages of litigation before discovery to survive motions to dismiss. The presumptions created by this bill begin to equalize the playing field.

In each of these ways, S1169A eases the path for New Yorkers who have been harmed through the use of a high-risk AI system to hold companies accountable, and the Legislature should move forward with protecting New Yorkers by passing this bill.

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EPIC commends Senator Gonzalez and this Committee for recognizing that regulating the development and use of AI systems in consequential decisions is a pressing issue that needs the Legislature's immediate attention. Advancing S1169A would protect New York residents while allowing AI innovation to continue safely and responsibly. We urge the Committee to act swiftly to advance this bill.

Thank you for the opportunity to speak today. EPIC is eager to continue working with Senator Gonzalez on this bill and is happy to be a resource to the Legislature on these pressing issues.

Sincerely,

/s/ Kara Williams

Kara Williams  
EPIC Counsel