

An Employer's Overview of AI Legislation in 5 Jurisdictions

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As the flurry of headlines focused on artificial intelligence makes clear, AI is hot across industries, sectors and areas of the law.

Indeed, one recent legislative proposal in California — Assembly Joint Resolution 6 — has even called for a temporary moratorium on the training of AI systems more powerful than GPT-4 to allow time for AI governance systems to catch up. Yet, the use of AI in employment continues to grow, garnering the attention of the White House and state legislatures alike.

At this point, many employers are likely aware of the rapidly approaching July 5 enforcement date for New York City's AI law, Local Law 144. However, many employers operate in multiple jurisdictions and are likely wondering what other legislative proposals are in the pipeline and how they compare to New York City's law.

These proposals are rapidly evolving and, at times, fall subject to the overarching regulatory plans of their state. For example, California's A.B. 331 — which would have required impact assessments for automated decision tools used in employment — was killed by California's Assembly Appropriations Committee on May 18.

A few days before, members of the California Privacy Protection Agency Board raised concerns about this bill because CPPA had already been tasked with regulating automated decision making and, as CPPA Board Member Alastair Mactaggart put it, is "the only realistic AI regulator in North America."

In this article, we offer an overview of AI-related proposals in five jurisdictions — Massachusetts, New York, New Jersey, Vermont and Washington, D.C. — including the key similarities and differences as compared to New York City's Local Law 144, as well as practical takeaways about the regulatory and legislative trends that are emerging.

As a quick reminder, Local Law 144 requires employers using covered automated employment decision tools in hiring and promotion to: (1) have an independent auditor conduct a bias audit of the tool based on race, ethnicity and sex; (2) provide notice to applicants and employees subject to the tool; and (3) publicly post a summary of the bias audit and distribution date of the tool.

Below we provide a chart summarizing the employment decisions covered by each of the proposed laws as well as the key ways in which the proposals differ from Local Law 144.

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Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding these developments. Please contact the Gibson Dunn lawyer with whom you usually work, any member of the firm's Labor and Employment practice group, or the

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