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Joint Committee on State Administration and Regulatory Oversight
Sen. Pacheco & Rep. Gregoire, Co-Chairs

Testimony in Support of H. 2701 and S. 1876

An Act establishing a commission on automated decision-making, artificial intelligence, transparency, fairness, and individual rights.

Dear Senator Pacheco, Representative Gregoire, and members of the committee,

I am writing in support of H.2701 and S. 1876, legislation to establish a commission on automated decision-making, artificial intelligence, transparency, fairness, and individual rights.

By way of background, I am a law professor at Suffolk University Law School, where I direct our Institute on Legal Innovation & Technology. I am also currently a Visiting Fellow at the Yale Information Society Project, and, in the past, have served as a Visiting Professor at MIT and as a Faculty Associate at the Berkman-Klein Center for Internet & Society at Harvard University. In my teaching and research, I am focused on how to deploy new technologies to improve legal services and access to justice.

I think it is vital that we study the impact of automated decision-making on transparency, fairness and individual rights. The current wave of automated technologies involve computer programs that solve specific tasks like predicting a numerical figure, recognizing someone's face, assessing risk, or making a data-driven recommendation.

From law enforcement to child welfare agencies, government entities are considering or experimenting with automated decision systems. For example, these tools can be used for:

- the use of risk assessment instruments in the juvenile probation system.
- to assist with pre-trial incarceration determinations.
- the RMV is reportedly using facial recognition systems to identify people.
- In other states, agencies have used automated decision systems in the child welfare and public benefits contexts, to determine which children may be at risk of abuse, and how much assistance people should get for their disability benefit.

The challenge is that, while these systems appear to be neutral and legitimate, automated decision systems are as fallible as the people that program them and the data that is selected for them to process. They reflect human choices and actions. Put differently, if biased algorithms power the tools, the results will be biased. Worse yet, because of the enormous processing

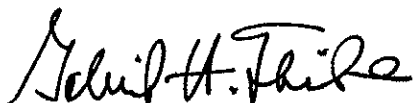
capacity of computers today, the use of data sets based on historic patterns and practices can exacerbate existing inequalities and injustices, making it more difficult to achieve equality and fairness for all people.

These tools can make our lives work more efficiently, but have a unique potential to encourage dystopian futures. Massachusetts residents should know who or what is making decisions that impact them, and they should be able to understand the decision making process.

To ensure people's rights are protected in the age of algorithms, this legislation creates a diverse, expert commission to:

- survey the government's use of automated decision systems;
- identify areas where legal rights and social benefits are at risk;
- make recommendations to the legislature to ensure that new technologies can be adopted without harming individuals or communities; and
- issue a public report that will let people know who—or what—is it that they are really dealing with when they interact with agencies in Massachusetts.

For these reasons, I am pleased to support this legislation and respectfully ask that the Joint Committee give a favorable report to **H. 2701 and S. 1876**. Thank you for your attention and consideration.

A handwritten signature in black ink, reading "Philip H. Frie". The signature is written in a cursive, flowing style.

Director of the Institute on Legal Innovation & Technology and Professor of Legal Writing
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(I offer this testimony in my individual capacity and my institutional affiliations are for identification-purposes only)