

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/SB 1680

INTRODUCER: Judiciary Committee and Senator Bradley

SUBJECT: Advanced Technology

DATE: February 13, 2024

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Collazo</u>	<u>Cibula</u>	<u>JU</u>	<b>Fav/CS</b>
2.	<u>Collazo</u>	<u>Twogood</u>	<u>RC</u>	<b>Pre-meeting</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1680 establishes the Government Technology Modernization Council, an advisory council within the Department of Management Services, to generally advise the Legislature on artificial intelligence (AI)-related issues. It also creates s. 827.072, F.S., entitled “Generated child pornography,” which makes it a crime to knowingly possess, control, intentionally view, or create generated child pornography.

The purpose of the advisory council is to generally study and monitor the development and deployment of AI systems and provide reports on such systems to the Governor and the Legislature. Accordingly, the bill requires council members to meet at least quarterly and to perform several duties, including the preparation and submittal of two annual reports to the Governor and Legislature: one addressing how to modernize government technology, and the other addressing ransomware incidents. The bill also provides for the composition of the advisory council and regulates other aspects of service on the council.

The new criminal statute defines the terms “generated child pornography,” “intentionally view,” “promote,” and “sexual conduct,” and makes it a crime to knowingly possess, control, intentionally view, or create generated child pornography. Each instance of possession, control, or intentional viewing constitutes a separate offense. Anyone convicted of violating the statute is subject to up to five years in prison and a \$5,000 fine, as well as enhanced penalties under the habitual offender statute.

The bill takes effect on July 1, 2024.

## II. Present Situation:

### Artificial Intelligence

#### *Generally*

Artificial intelligence (AI) is the development of computer systems to perform tasks that normally require human intelligence, such as learning and decision-making.<sup>1</sup> It enables computer systems to receive information that is either provided to them by others or gathered by them (e.g. through camera lenses or other sensors), which they can then process and respond to in some meaningful way. To a certain extent, AI systems are capable of adapting their behavior by analyzing the effects of previous actions and working autonomously.<sup>2</sup>

Investments in AI have led to many of the transformative advancements that U.S. consumers rely upon every day,<sup>3</sup> including mapping technologies, voice-assisted smartphones, handwriting recognition for mail delivery, financial trading, smart logistics, spam filtering, and language translation. AI advances have also provided significant social benefits in areas such as precision medicine, environmental sustainability, education, and public welfare.<sup>4</sup>

#### *Types of AI*

AI may be generally classified in one of three classes based on its capabilities or its functionalities:<sup>5</sup>

- *Artificial Narrow AI*. Also known as Weak AI, Artificial Narrow AI is the only type of AI that exists today. All other forms of AI are theoretical. Machines using Weak AI can only perform specific tasks using human-like capabilities. They can do nothing more than what they are programmed to do. Examples of Artificial Narrow AI include Siri, Alexa, and ChatGPT.<sup>6</sup>
- *General AI*. Also known as Strong AI, General AI is only a theoretical concept. Any machine or application using Strong AI in the future would be able to use what they have learned in the past to accomplish new tasks in different contexts without the need for additional training by human beings. In other words, they would be able to learn, perceive, understand, and function completely like a human beings.<sup>7</sup>
- *Super AI*. Also known as artificial superintelligence, Super AI is strictly theoretical. If ever realized, machines using Super AI would think, reason, learn, make judgments, and possess cognitive abilities surpassing those of human beings. Machines possessing Super AI capabilities would have evolved beyond the point of understanding human sentiments and

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<sup>1</sup> National Conference of State Legislatures (NCSL), *Artificial Intelligence 2023 Legislation*, Jan. 12, 2024, <https://www.ncsl.org/technology-and-communication/artificial-intelligence-2023-legislation>.

<sup>2</sup> European Parliament, *What is artificial intelligence and how is it used?*, E.U. News, Jun. 20, 2023, <https://www.europarl.europa.eu/news/en/headlines/society/20200827STO85804/what-is-artificial-intelligence-and-how-is-it-used>.

<sup>3</sup> U.S. Department of State, *Artificial Intelligence (AI)*, <https://www.state.gov/artificial-intelligence/> (last visited Jan. 20, 2024).

<sup>4</sup> *Id.*

<sup>5</sup> IBM, *Understanding the different types of artificial intelligence*, Oct. 12, 2023, <https://www.ibm.com/blog/understanding-the-different-types-of-artificial-intelligence/>; Naveen Joshi, *7 Types of Artificial Intelligence*, Jun. 19, 2019, Forbes, <https://www.forbes.com/sites/cognitiveworld/2019/06/19/7-types-of-artificial-intelligence/?sh=7b5ddf4d233e>.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

experiences to feeling emotions, having needs, and possessing beliefs and desires of their own.<sup>8</sup>

Under the umbrella of Artificial Narrow AI or Weak AI, there are four kinds of AI based upon functionalities:<sup>9</sup>

- *Reactive Machine AI.* Reactive machines are AI systems with no memory. They are designed to perform very specific tasks. They can only work with presently available data because they cannot recollect previous outcomes or decisions. Reactive Machine AI stems from statistical math and can analyze vast amounts of data to produce a seemingly intelligent output. Examples of machines and applications that rely upon Reactive Machine AI include IBM Deep Blue (IBM’s chess-playing supercomputer) and the Netflix recommendation engine.<sup>10</sup>
- *Limited Memory AI.* In addition to having the capabilities of purely reactive machines, Limited Memory AI machines and applications are also capable of learning from historical data to make decisions. Almost all present-day Limited Memory AI applications, including Generative AI tools (e.g. chatbots and virtual assistants) and self-driving vehicles, are Limited Memory AI machines and applications.<sup>11</sup>
- *Theory of Mind AI.* Theory of Mind AI is a kind of General AI that exists in concept only at this time. It is the “next level” of AI systems that researchers are currently developing. Machines and applications using a Theory of Mind level AI will be able to understand the thoughts and emotions of other entities. In theory, this will allow them to simulate human-like relationships and to contextualize artwork and essays, which today’s Generative AI tools are unable to do.<sup>12</sup>
- *Self-Aware AI.* Self-Aware AI is a kind of Super AI that exists in concept only at this time. It is strictly theoretical. If ever achieved, it will have the ability to understand its own internal conditions and traits along with human emotions and thoughts. It will also have its own set of emotions, needs, and beliefs.<sup>13</sup>

### ***Generative AI***

Generative AI is a type of Limited Memory AI technology<sup>14</sup> that can produce high-quality content, including text, images, audio, or video, within seconds when prompted by a user.<sup>15</sup> Although it was first introduced in the 1960s, it was not until 2014, with the introduction of

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

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

<sup>12</sup> *Id.* Emotion AI is a kind of Theory of Mind AI that is currently under development. Researchers hope that it will one day have the ability to analyze voices, images, and other kinds of data to recognize, simulate, monitor, and respond appropriately to humans on an emotional level. To date, Emotion AI is unable to understand and respond to human feelings. *Id.*

<sup>13</sup> *Id.*

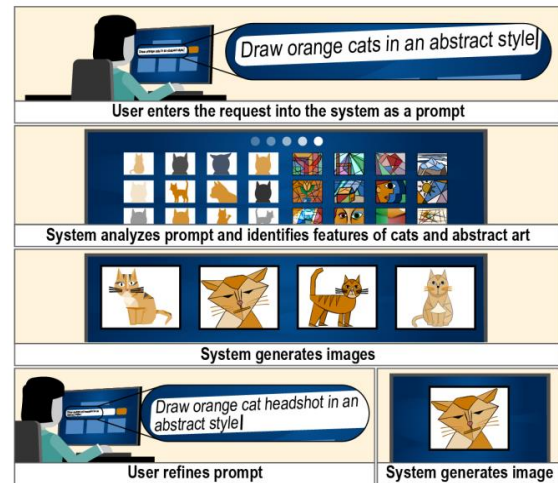
<sup>14</sup> George Lawton, *What is generative AI? Everything you need to know*, TechTarget, Jan. 2024, <https://www.techtarget.com/searchenterpriseai/definition/generative-AI>.

<sup>15</sup> Government Accountability Office (GAO), Science, Technology Assessment, and Analytics, *Science & Tech Spotlight: Generative AI* (June 2023), available at <https://www.gao.gov/assets/gao-23-106782.pdf>; George Lawton, *What is generative AI? Everything you need to know*, TechTarget, Jan. 2024, <https://www.techtarget.com/searchenterpriseai/definition/generative-AI>.

generative adversarial networks, or GANs (a type of machine learning algorithm),<sup>16</sup> that Generative AI could convincingly create authentic images, videos, and audio of real people.<sup>17</sup>

Generative AI systems learn patterns and relationships from massive amounts of data, which enables them to process and create new content that may be similar, but not identical, to the underlying training data. Such systems rely upon sophisticated machine learning algorithms and statistical models to work.<sup>18</sup>

In order to generate new content, Generative AI users are required to submit prompts that guide the generation of new content. Many iterations may be required to produce the intended result because Generative AI is sensitive to the wording of prompts.<sup>19</sup>



Source: GAO (analysis and illustrations). | GAO-23-106782

### ***How Generative AI Works***<sup>20</sup>

Because Generative AI can do so much, it has many potential applications, including in education, government, medicine, and law. Applications include:

- Writing a speech in a particular tone.
- Summarizing complex research.
- Assessing legal documents.
- Creating images for different applications.
- Composing music.
- Composing poems.
- Designing molecules for new drugs.
- Generating programming codes.
- Translating languages.
- Implementing chatbots.

<sup>16</sup> “A generative adversarial network (GAN) is a deep learning architecture. It trains two neural networks to compete against each other to generate more authentic new data from a given training dataset. For instance, you can generate new images from an existing image database or original music from a database of songs. A GAN is called adversarial because it trains two different networks and pits them against each other. One network generates new data by taking an input data sample and modifying it as much as possible. The other network tries to predict whether the generated data output belongs in the original dataset. In other words, the predicting network determines whether the generated data is fake or real. The system generates newer, improved versions of fake data values until the predicting network can no longer distinguish fake from original.” Amazon Web Services (AWS), *What is a GAN?*, <https://aws.amazon.com/what-is/gan/> (last visited Jan. 20, 2024). GAN can generate images, training data for other models, complete missing information, and generate 3D models from 2D data. *Id.*

<sup>17</sup> George Lawton, *What is generative AI? Everything you need to know*, TechTarget, Jan. 2024, <https://www.techtarget.com/searchenterpriseai/definition/generative-AI>.

<sup>18</sup> Government Accountability Office (GAO), Science, Technology Assessment, and Analytics, *Science & Tech Spotlight: Generative AI* (June 2023), available at <https://www.gao.gov/assets/gao-23-106782.pdf>. Training data can include open-source information, such as text and images from the internet. *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

- Deploying “deepfakes.”<sup>21</sup>
- Improving dubbing for movies.
- Designing physical products and buildings.<sup>22</sup>

As of early 2023, emerging Generative AI systems have reached more than 100 million users and have attracted global attention to their potential applications.<sup>23</sup>

The U.S. Government Accountability Office has identified several opportunities and challenges in connection with the proliferation of Generative AI systems.<sup>24</sup> With respect to opportunities, Generative AI can quicken access to ideas and knowledge by helping people more efficiently gather new information; help automate a wide variety of administrative and repetitive tasks; and enhance the productivity of many industries.<sup>25</sup> With respect to challenges, because Generative AI systems can respond to harmful instructions, they can increase the speed and scale of many real world harms, such as facilitating the development and proliferation of false information; facilitating the use of copyrighted, proprietary, or sensitive data, without the owner’s or subject’s knowledge; reducing privacy for users, including minors, through the retention of personally identifiable information without consent; and facilitating the storage and use of sensitive information by foreign adversaries.<sup>26</sup>

### ***Regulation***

Concerns about the potential misuse or unintended consequences of AI have prompted efforts to examine and develop standards at the federal and state levels.<sup>27</sup>

For example, the White House Office of Science and Technology Policy has published a document identifying principles that should guide the design, use, and deployment of automated

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<sup>21</sup> Deepfake AI is a type of AI used to create convincing images, audio, and video hoaxes. “Deepfakes” are created using a combination of techniques, including face swapping. Algorithms learn the unique features of a person’s face, such as the shape of his or her nose, the size of his or her eyes, and the position of his or her eyebrows, to create new images or videos using the person’s likeness. The new image or video is very realistic and it may be difficult to tell that it has been manipulated. Jerome Thiebaud, *How Badly Will Deepfakes Weaponize Generative AI?*, Centific, <https://www.centific.com/how-badly-will-deepfakes-weaponize-generative-ai/> (last visited Jan. 22, 2024).

<sup>22</sup> Government Accountability Office (GAO), Science, Technology Assessment, and Analytics, *Science & Tech Spotlight: Generative AI* (Jun. 2023), available at <https://www.gao.gov/assets/gao-23-106782.pdf>; George Lawton, *What is generative AI? Everything you need to know*, TechTarget, Jan. 2024, <https://www.techtarget.com/searchenterpriseai/definition/generative-AI>.

<sup>23</sup> Government Accountability Office (GAO), Science, Technology Assessment, and Analytics, *Science & Tech Spotlight: Generative AI* (Jun. 2023), available at <https://www.gao.gov/assets/gao-23-106782.pdf>.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> NCSL, *Artificial Intelligence 2023 Legislation*, Jan. 12, 2024, <https://www.ncsl.org/technology-and-communication/artificial-intelligence-2023-legislation>.

systems.<sup>28</sup> And the U.S. National Institute of Standards and Technology<sup>29</sup> is holding workshops and discussions with the public and private sectors to develop federal standards for the creation of reliable and trustworthy AI systems.<sup>30</sup>

In 2023, at least 25 states, Puerto Rico, and the District of Columbia introduced AI bills, and 18 states and Puerto Rico adopted resolutions or enacted legislation. Examples include:<sup>31</sup>

- Connecticut:
  - Required its Department of Administrative Services to conduct an inventory of all systems employing AI in use by state agencies and, beginning Feb. 1, 2024, to perform ongoing assessments of such systems, to ensure that they will not result in unlawful discrimination or disparate impact.
  - Required its Office of Policy and Management to establish policies and procedures concerning the development, procurement, implementation, utilization and ongoing assessment of systems employing AI in use by state agencies.<sup>32</sup>
- Louisiana adopted a resolution requesting its Joint Committee on Technology and Cybersecurity to study the impact of AI in operations, procurement, and policy.<sup>33</sup>
- Maryland established a grant program, its Industry 4.0 Technology Grant Program, to assist certain small and medium-sized manufacturing enterprises with implementing new “industry 4.0” technology or related infrastructure. The definition of industry 4.0 includes AI.<sup>34</sup>
- North Dakota enacted legislation defining a person as an individual, organization, government, political subdivision, or government agency or instrumentality, and specifying that the term does not include environmental elements, AI, animals, or inanimate objects.<sup>35</sup>
- Texas created an AI advisory council to study and monitor AI systems developed, employed or procured by state agencies. North Dakota, Puerto Rico, and West Virginia also created similar councils.<sup>36</sup>

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<sup>28</sup> The White House, Office of Science and Technology Policy (OSTP), *Blueprint for an AI Bill of Rights*, <https://www.whitehouse.gov/ostp/ai-bill-of-rights/> (last visited Jan. 22, 2024); *see also* The White House, OSTP, *Blueprint for an AI Bill of Rights* (Oct. 2022), available at <https://www.whitehouse.gov/wp-content/uploads/2022/10/Blueprint-for-an-AI-Bill-of-Rights.pdf> (providing that one should be protected from unsafe or ineffective systems; one should not face discrimination by algorithms (systems should be used and designed in an equitable way); one should be protected from abusive data practices via built-in protections and have agency over how data about him or her is used; one should know that an automated system is being used and understand how and why it contributes to outcomes that impact him or her; and one should be able to opt out, where appropriate, and have access to a person who can quickly consider and remedy problems one encounters).

<sup>29</sup> The U.S. National Institute of Standards and Technology (NIST) was founded in 1901 and today forms part of the U.S. Department of Commerce. It is one of the nation’s oldest physical science laboratories. NIST, *About NIST*, <https://www.nist.gov/about-nist> (last visited Jan. 22, 2024).

<sup>30</sup> National Conference of State Legislatures (NCSL), *Artificial Intelligence 2023 Legislation*, Jan. 12, 2024, <https://www.ncsl.org/technology-and-communication/artificial-intelligence-2023-legislation>; *see also* NIST, *Artificial Intelligence*, <https://www.nist.gov/artificial-intelligence> (last visited Jan. 22, 2024) (describing NIST’s activities in connection with AI development).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

## Advisory Councils

A “council” or an “advisory council” is a kind of advisory body. It is created by specific statutory enactment and appointed to:

- Function on a continuing basis for the study of problems arising in a specified functional or program area of state government.
- Provide recommendations and policy alternatives.<sup>37</sup>

Advisory bodies created by specific statutory enactment, as an adjunct to an executive agency, must be established, evaluated, or maintained in accordance with the following requirements:

- They may be created only when it is found to be necessary and beneficial to the furtherance of a public purpose.<sup>38</sup>
- They must be terminated by the Legislature when they are no longer necessary and beneficial to the furtherance of a public purpose.<sup>39</sup>
- The Legislature and the public must be kept informed of the numbers, purposes, memberships, activities, and expenses of advisory bodies established as adjuncts to executive agencies.<sup>40</sup>
- They must meet a statutorily defined purpose.<sup>41</sup>
- Their powers and responsibilities must conform with the definitions for governmental units specified by statute.<sup>42</sup>
- Their members, unless expressly provided otherwise in the state constitution, must be appointed for four-year staggered terms.<sup>43</sup>
- Their members, unless expressly provided otherwise by specific statutory enactment, must serve without additional compensation or honorarium, and are authorized to receive only per diem and reimbursement for travel expenses as provided by statute.<sup>44</sup>
- The private citizen members of advisory bodies that are adjunct to executive agencies must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer.<sup>45</sup>
- The private citizen members of commissions or boards of trustees that are adjunct to executive agencies must be appointed by the Governor unless otherwise provided by law, must be confirmed by the Senate, and must be subject to the dual-office-holding prohibition of the State Constitution.<sup>46</sup>
- Unless an exemption is otherwise specifically provided by law, all meetings of advisory bodies adjunct to executive agencies are public meetings, and minutes, including a record of all votes cast, must be maintained for all meetings.<sup>47</sup>

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<sup>37</sup> Section 20.03(7), F.S.

<sup>38</sup> Section 20.052(1), F.S.

<sup>39</sup> Section 20.052(2), F.S. The executive agency to which the advisory body is made an adjunct must advise the legislature at the time the advisory body ceases to be essential to the furtherance of a public purpose. *Id.*

<sup>40</sup> Section 20.052(3), F.S.

<sup>41</sup> Section 20.052(4)(a), F.S.

<sup>42</sup> Section 20.052(4)(b), F.S.

<sup>43</sup> Section 20.052(4)(c), F.S.

<sup>44</sup> Section 20.052(4)(d), F.S.

<sup>45</sup> Section 20.052(5)(a), F.S.

<sup>46</sup> Section 20.052(5)(b), F.S.

<sup>47</sup> Section 20.052(5)(c), F.S.



- If an advisory body that is adjunct to an executive agency is abolished, its records must be appropriately stored, within 30 days after the effective date of its abolition, by the executive agency to which it was adjunct, and any property assigned to it must be reclaimed by the executive agency.<sup>48</sup>

### III. Effect of Proposed Changes:

#### Government Technology Modernization Council

**Section 1** of the bill creates the Government Technology Modernization Council, as an advisory council<sup>49</sup> within the Department of Management Services. Except as otherwise provided in the bill, the council must operate in a manner consistent with the statute regulating advisory bodies, commissions, and boards.<sup>50</sup>

#### *Purpose*

The purpose of the council is to study and monitor the development and deployment of artificial intelligence systems and provide reports on such systems to the Governor and the Legislature.

#### *Composition*

The council must be composed of the following members:

- The Lieutenant Governor.
- The state chief information officer.
- The State Surgeon General.
- The Secretary of Health Care Administration.
- A representative of the computer crime center of the Department of Law Enforcement, appointed by the executive director of the Department of Law Enforcement.
- The Chief Inspector General.
- Thirteen representatives of institutions of higher education located in the state or the private sector with senior-level experience or expertise in artificial intelligence, cloud computing, identity management, data science, machine learning, government procurement, and constitutional law, with:
  - Seven appointed by the Governor.
  - Three appointed by the President of the Senate.
  - Three appointed by the Speaker of the House of Representatives.
- One member of the Senate, appointed by the President of the Senate or his or her designee.
- One member of the House of Representatives, appointed by the Speaker of the House of Representatives or his or her designee.

The Secretary of Management Services, or his or her designee, must serve as the ex officio, nonvoting executive director of the council.

<sup>48</sup> Section 20.052(5)(d), F.S.

<sup>49</sup> A “council” or “advisory council” means an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives. Section 20.03(7), F.S.

<sup>50</sup> See s. 20.052, F.S. (regulating advisory bodies, commissions, and boards).



***Term***

The bill requires members to serve for a term of 4 years, except that sitting members of the Senate and the House of Representatives must serve terms that correspond with their terms of office. For the purpose of providing staggered terms, the initial appointments of members made by the Governor must be for a term of 2 years. A vacancy must be filled for the remainder of the unexpired term in the same manner as the initial appointment. All members of the council are eligible for reappointment.

***Compensation***

The bill requires members of the council to serve without compensation, but they are entitled to receive reimbursement for per diem and travel expenses pursuant to state law.<sup>51</sup>

***Confidential or Exempt Status of Information Received***

The bill requires members of the council to maintain the confidential or exempt status of information received in the performance of their duties and responsibilities as members of the council. In accordance with state law,<sup>52</sup> a current or former member of the council may not disclose or use information not available to the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity. Members of the council must sign an agreement acknowledging these provisions.

***Duties***

The bill requires the council to meet at least quarterly to:

- Assess and provide guidance on necessary legislative reforms and the creation of a state code of ethics for artificial intelligence systems in state government.
- Assess the effect of automated decision systems on constitutional and other legal rights, duties, and privileges of residents of the state.
- Study the potential benefits, liabilities, and risks that this state, residents of this state, and businesses may incur as a result of implementing automated decision systems.
- Recommend legislative and administrative actions that the Legislature and state agencies<sup>53</sup> may take to promote the development of data modernization in this state.
- Assess where artificial intelligence is deployed today.
- Evaluate common standards for artificial intelligence safety and security measures.
- Assess how governmental entities and the private sector are using artificial intelligence with a focus on opportunity areas for deployments in systems across this state.
- Determine how artificial intelligence is being exploited by bad actors, including foreign countries of concern as defined in state law.<sup>54</sup>

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<sup>51</sup> Section 112.061, F.S.

<sup>52</sup> See s. 112.313, F.S. (providing standards of conduct for public officers, employees of agencies, and local government attorneys).

<sup>53</sup> See s. 282.318(2), F.S. (providing that the term has the same meaning as in s. 282.0041, F.S., except that it includes the Department of Legal Affairs, the Department of Agriculture and Consumer Services, and the Department of Financial Services).

<sup>54</sup> See s. 287.138(1)(c), F.S. (defining “foreign countries of concern” to mean the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan

The bill provides that by June 30, 2025, and each June 30 thereafter, the council must submit to the President of the Senate and the Speaker of the House of Representatives any legislative recommendations considered necessary by the council to modernize government technology.

The bill also provides that by December 1, 2024, and each December 1 thereafter, the council must submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a comprehensive report that includes data, trends, analysis, findings, and recommendations for state and local action regarding ransomware incidents. At a minimum, the report must include:

- A summary of recommendations by relevant national entities on technology systems in state government, including, but not limited to, artificial intelligence, cloud computing, identity management, and financial technology.
- An assessment of the impact of using artificial intelligence systems on the liberty, finances, livelihood, and privacy interests of residents of this state.
- Recommended policies necessary to:
  - Protect the privacy interests of residents of the state from any decrease in employment caused by artificial intelligence systems.
  - Ensure that residents of the state are free from unfair discrimination caused or compounded by the employment of artificial intelligence systems.
  - Promote the development and deployment of artificial intelligence systems in the state.
- Any other information the council considers relevant.

### **Generated Child Pornography**

**Section 2** of the bill creates s. 827.072, F.S., entitled “Generated child pornography.”

#### ***Definitions***

Under the bill, the term:

- “Generated child pornography” means any image that has been created, altered, adapted, or modified by electronic, mechanical, or other computer-generated means to portray a fictitious person, who a reasonable person would regard as being a real person younger than 18 years of age, engaged in sexual conduct.
- “Intentionally view” means deliberately, purposefully, and voluntarily view. Proof of intentional viewing requires establishing more than a single image, motion picture, exhibition, show, image, data, computer depiction, representation, or other presentation over any period of time.<sup>55</sup>
- “Promote” means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, transmute, publish, distribute, circulate, disseminate, present, exhibit, send, post, share, or advertise or to offer or agree to do the same.<sup>56</sup>
- “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual or simulated lewd exhibition of the genitals; actual physical contact with a person’s clothed or unclothed genitals, pubic

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regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern).

<sup>55</sup> Section 827.071(1)(f), F.S.

<sup>56</sup> Section 827.071(1)(h), F.S.

area, buttocks, or, if such person is a female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct."<sup>57</sup>

### *Criminal Prohibitions*

The bill provides that it is unlawful for a person to knowingly possess or control or intentionally view a photograph, a motion picture, a representation, an image, a data file, a computer depiction, or any other presentation which, in whole or in part, he or she knows includes generated child pornography. The possession, control, or intentional viewing of each such photograph, motion picture, representation, image, data file, computer depiction, or other presentation is a separate offense. A person who violates these provisions commits a felony of the third degree, punishable as provided in s. 775.082,<sup>58</sup> s. 775.083,<sup>59</sup> or s. 775.084,<sup>60</sup> F.S.

Additionally, any person who intentionally creates generated child pornography commits a felony of the third degree, punishable as provided in s. 775.082,<sup>61</sup> s. 775.083,<sup>62</sup> or s. 775.084,<sup>63</sup> F.S.

### *Effective Date*

**Section 3** of the bill provides that it takes effect July 1, 2024.

## **IV. Constitutional Issues:**

### A. Municipality/County Mandates Restrictions:

None.

### B. Public Records/Open Meetings Issues:

None.

### C. Trust Funds Restrictions:

None.

### D. State Tax or Fee Increases:

None.

<sup>57</sup> Section 827.071(1)(l), F.S.

<sup>58</sup> A term of imprisonment not exceeding five years. *See* s. 775.082(3)(e), F.S.

<sup>59</sup> A fine of up to \$5,000. *See* s. 775.083(1)(c), F.S.

<sup>60</sup> Providing for enhanced penalties for habitual offenders.

<sup>61</sup> A term of imprisonment not exceeding five years. *See* s. 775.082(3)(e), F.S.

<sup>62</sup> A fine of up to \$5,000. *See* s. 775.083(1)(c), F.S.

<sup>63</sup> Providing for enhanced penalties for habitual offenders.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Management Services will incur costs associated with administratively supporting the council and reimbursing its members for travel and other costs. However, these costs will be relatively small and can likely be absorbed by the Department of Management Services' existing operating budget.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 282.802 and 827.072.

**IX. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Judiciary on January 29, 2024:**

The delete all amendment is the same as the original bill, except it:

- Provides that the Lieutenant Governor, Surgeon General, and Secretary of AHCA cannot appoint designees to the advisory council.
- Requires the Governor to appoint 7, instead of 6, to the advisory council, for a new total of 13 total representatives.
- Requires the advisory council to include representatives with senior level experience or expertise in government procurement and constitutional law.
- Requires advisory council members who are sitting members of the House and Senate to serve terms that correspond to their terms in office.

- Requires the advisory council to recommend legislative and administrative actions that the Legislature and state agencies may take to promote the development of data modernization, instead of artificial AI systems.
- Eliminates the need for the advisory council to assess what AI is currently capable of, and recent developments, including the application of AI in manufacturing, mining, farming, and logistics.
- Eliminates the need for the advisory council to discuss the future of AI and the ways it could develop over the next decade, including the application of AI to manufacturing, mining, farming, and logistics.
- Requires the advisory council, in assessing the ways governmental entities and the private sector are using AI, to focus on opportunity areas for deployments in systems across the state.
- Requires the June 30, 2025, report to include recommendations considered by the advisory council to modernize government technology, instead of to address AI.
- Requires the December 1, 2024, report to include, in its summary of recommendations by relevant national entities in state government, a summary on technology systems including AI, cloud computing, identity management, and financial technology.
- Creates a new criminal statute, instead of an AI transparency statute, that makes it unlawful for a person to knowingly possess, control, or intentionally view media that he or she knows includes generated child pornography, or to intentionally create generated child pornography; violators of the new criminal statute commit a felony of the third degree.

**B. Amendments:**

None.