

October 19, 2026

New Jersey General Assembly
Assembly Science, Innovation, and Technology Committee

Dear Chair Tully, Vice Chair Singh, and Members of the Committee:

EPIC writes in support of A5090, the GAI Accountability Act, as well as the drafted amendments. AI use is increasing rapidly, and the harms this technology is causing are also skyrocketing. Policymakers should act swiftly to protect residents from this plethora of harms. One key mechanism for protecting residents from AI harms is to adopt a clear liability framework that allows New Jerseyans to hold AI developers and deployers accountable if their products cause harm.

The Electronic Privacy Information Center (EPIC) is an independent nonprofit research organization in Washington, D.C., established in 1994 to protect privacy, freedom of expression, and democratic values in the information age.¹ EPIC has a long history of advocating for safe and responsible technology and for tech policy that protects the privacy and civil rights of all people.

Largely Unregulated AI Systems Are Causing Devastating Harms Across Contexts.

AI systems of all kinds are causing widespread harms. For example, chatbots, which are quickly gaining traction among people of all ages, have left a huge track record of harm in the few years they have been in widespread use. Two-thirds of teens report having used a chatbot, and 30% of teens use chatbots every day.² The number of adults who have used ChatGPT doubled from mid-2023 to mid-2025, with over one-third of adults having used the chatbot.³ Use of chatbots is causing devastating harms, including suicide, self-harm, violence against others, sexual exploitation and predation, financial scams, reputational injuries, and mental health harms like anxiety, depression, unhealthy emotional attachment, and AI psychosis.⁴

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

² Michelle Faverio & Olivia Sidoti, *Teens, Social Media and AI Chatbots 2025*, Pew Research Ctr. (Dec. 9, 2025), <https://www.pewresearch.org/internet/2025/12/09/teens-social-media-and-ai-chatbots-2025/>.

³ Olivia Sidoti & Colleen McClain, *34% of U.S. Adults Have Used ChatGPT, About Double the Share in 2023*, Pew Research Ctr. (June 25, 2025), <https://www.pewresearch.org/short-reads/2025/06/25/34-of-us-adults-have-used-chatgpt-about-double-the-share-in-2023/>.

⁴ See, e.g., Kashmir Hill, *They Asked an A.I. Chatbot Questions. The Answers Sent Them Spiraling.*, N.Y. Times (June 13, 2025), <https://www.nytimes.com/2025/06/13/technology/chatgpt-ai-chatbots-conspiracies.html>; Noor Al-Sibai, *Psychiatrists Warn that Talking to AI Is Leading to Severe Mental Health Issues*, Futurism (Aug. 19, 2025), <https://futurism.com/psychiatrists-ai-mental-health-chatbots>; Nguyen, Meyer & Levine, *AI Sycophancy: Impacts, Harms & Questions*, Georgetown Law Inst. for Technology Law & Policy (Aug. 11, 2025), <https://www.law.georgetown.edu/tech-institute/research-insights/insights/ai-sycophancy-impacts-harms-questions/>.

Similarly, the use of automated decisionmaking systems has resulted in life-altering harms for huge swaths of people. The use of AI in making important decisions about people's lives 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."⁵ Unfortunately, the use of automated decisionmaking systems has resulted in a long history of inaccuracy and discrimination—the use of these AI systems has led to the wrongful denial of people's access to housing,⁶ medically necessary coverage,⁷ job opportunities,⁸ loans,⁹ and more.

Chatbots and automated decisionmaking systems are just two of many examples of AI systems being used to inflict massive harms, and unfortunately, it has proven difficult for the people harmed by these AI systems to hold the tech companies that created them accountable. The Legislature should act now to ensure that New Jerseyans have a clear way to hold AI companies accountable if their products cause harm.

AI Companies Should Be Held Accountable for the Harms the Systems They Create Cause.

This Committee should advance A5090 with the drafted amendments to clarify the liability standards for AI companies when their products cause harm. While existing laws do, of course, still apply to AI, certain aspects of the technology can complicate enforcement of some laws, particularly crimes that require certain mental states. A5090 with the drafted amendments, including the rebuttable presumption and the statement about unacceptable affirmative defenses, clarifies that the fact that AI systems are incapable of having mental states does not prevent the creators or deployers of those systems from being held accountable for any harms caused or crimes committed by AI systems under their control. The bill's enforcement mechanisms and high penalties, along with the potential for punitive damages, are essential to ensure that AI companies take their responsibility to develop safe AI systems seriously, and they will serve as a real deterrent toward continued irresponsible, profit-driven decisions over ones that prioritize user safety.

Lastly, this bill goes a long way toward combatting the idea that AI is somehow different than other products or that the industry deserves special rules. The dangerous rhetoric that AI

⁵ 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>.

⁶ 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>.

⁷ 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/>.

⁸ 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>.

⁹ 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/>.

companies' executives perpetuate to avoid liability, including that AI systems are "going rogue" or acting without human control, is nothing but marketing speak.¹⁰ This language seeks to make their AI products sound particularly powerful and to minimize the companies' responsibility for harm. AI executives are explicitly using such language to advocate for liability shields and other special treatment.¹¹ New Jersey should not accept this request to exempt AI products from existing laws. Passing A5090 with the drafted amendments will be a clear statement that AI is no different from any other product and that the developers of AI systems should be held responsible for any harm their products cause, just like those who develop any other product.¹² If AI developers cannot ensure their products are safe, they should not put them in the public marketplace, and if they do choose to make their products public, they must take responsibility for any resulting harm. This bill is a step toward securing that reality, and EPIC urges the Committee to advance this legislation with the drafted amendments.

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Big Tech companies are currently operating with very few rules and very little oversight, and they've proven time and time again that they cannot be trusted to self-regulate. Thus, it is essential that the Committee advance this bill with the drafted amendments to adopt a clear path for New Jerseyans to hold AI companies responsible for harms their products cause.

Thank you for the opportunity to testify today. EPIC is happy to be a resource to the Committee on these issues.

Sincerely,

/s/ Kara Williams

Kara Williams
EPIC Counsel

¹⁰ See, e.g., Laura Cress, *OpenAI Says Its AI Went Rogue and Launched 'Unprecedented' Cyber-Attack*, BBC (July 22, 2026), <https://www.bbc.com/news/articles/c3ek3gvdnj3o>; Echo Wang & Jody Godoy, *Exclusive: Anthropic Says Rogue AI Agents Pose Uncertain Legal Risk for the Company*, Reuters (Sept. 29, 2026), <https://www.reuters.com/legal/litigation/anthropic-says-rogue-ai-agents-pose-uncertain-legal-risk-company-2026-09-29/>.

¹¹ See, e.g., Dario Amodei, *We Must Pace the Frontier* (Sept. 2026), <https://darioamodei.com/post/we-must-pace-the-frontier>; Fortune editors, *Sam Altman on the Burden of Leading OpenAI Amid AI Safety Concerns: 'You Get Used to Anything,'* Fortune (Sept. 15, 2026), <https://fortune.com/2026/09/15/sam-altman-openai-ai-safety-pause-trump-xi/>; Maxwell Zeff, *OpenAI Backs Bill that Would Limit Liability for AI-Enabled Mass Deaths or Financial Disasters*, Wired (Apr. 9, 2026), <https://www.wired.com/story/openai-backs-bill-exempt-ai-firms-model-harm-lawsuits/>.

¹² Editorial Board, *Opinion: A.I. Companies Say They Aren't Responsible for Their Unpredictable Products. Don't Believe Them.*, N.Y. Times (Oct. 10, 2026), <https://www.nytimes.com/2026/10/10/opinion/ai-companies-liability-laws.html>.