

Executive Summary

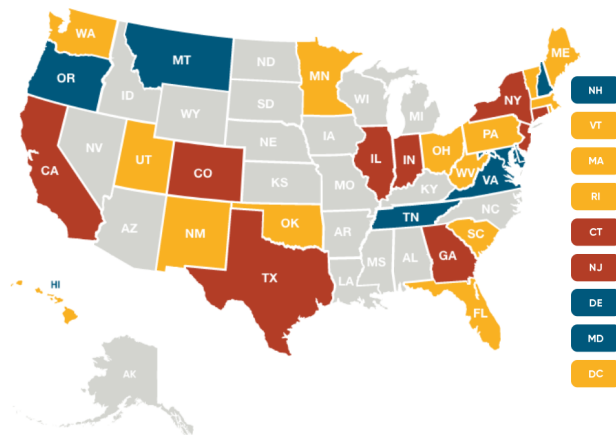
Massachusetts is starkly behind its peer states in legislative action in the artificial intelligence domain. Recent news including an AI commission approved by Governor Healey signals a potential and needed shift in the legislative space. Encode Justice Massachusetts has analyzed AI and tech legislation and concluded three major points: 1. Policy needs to be coordinated, establishing basic definitions, terms, and extensions of law 2. Educators need a more precise and direct plan for AI 3. Youth voices need to be heard in this space.

I. Introduction

Massachusetts remains one of the fastest growing hubs for technological innovation and growth among other states. Most recently, Governor Healey has signed an executive order on an artificial intelligence (AI) task force. Legislatively, however, Massachusetts lacks a clear vision or policy. It remains particularly behind its peers like New York and California who have passed comprehensive introductory frameworks and policies in 2021 and 2023 respectively, and now needs to conceptualize the guard rails that will ensure the safety and security of Massachusetts.

II. Issue Overview

With proposed legislation yet to be enacted, Massachusetts stands in the middle among the other 50 states in legislative progress for AI. Various representatives and senators have proposed legislation on artificial intelligence such as Representative Cutler of Pembroke and Representative Fernandes of



Falmouth in 2023. Three out of the seven artificial intelligence bills proposed have failed, which include HB1974, H1873, and SB31. These pieces of legislation included proposals to regulate artificial intelligence in mental health practices, ChatGPT, and Automated Decision Systems in work environments, respectively.

This holds importance because states sharing similar economic and political contexts, like New York, California, and New Jersey, have all taken steps to enact AI policies.

Policy isn't the only metric of progress, however. In August, Massachusetts' regulators launched an investigation into the use of artificial intelligence in financial firms like JP Morgan Chase, Morgan



Stanley, US Tiger Securities, and more. More so, as a result of using hallucinations, which are falsely generated content by AI, attorneys in *Smith v. Farwell, et al.* paid a \$5,000 fine

and set a precedent for lawyers that the Massachusetts Rules of Civil Procedure 11 and 7 applied in this new domain. In the ruling, the judge stated that courts in Massachusetts must, "know whether AI technology is being used in the preparation of court papers and ensure that appropriate steps are taken to verify the truthfulness and accuracy of any AI-generated content before the papers are submitted."

In another act of proactivity, Commissioner Jeffrey Riley of the Massachusetts Department of Elementary and Secondary Education stated that he was meeting with the educational board about artificial intelligence in education, becoming one of the few educational leaders among other states to address AI in education in the last year.

Put simply, Massachusetts neither triumphs in action or fails in inaction. Instead, it has taken moderate progressive action without the backing of analogous policy. While for many states this would make sense contextually both politically and economically — in which, often, artificial intelligence has become only moderately deployed or the state's legislature has taken a preference to minimal regulations — Massachusetts has historically championed itself as both a progressive policy beacon and technological hub for future innovation. It's due time that Massachusetts sets a precedent for the nation and secures the safety of its citizens.

III. Massachusetts' Legislative Landscape

In Massachusetts, there have been recent legislative efforts to regulate artificial intelligence (AI) and similar technologies:

- 1) *Bill S.31* introduced by Senator Finegold aims to regulate generative artificial intelligence models like ChatGPT. The bill was referred to the committee on Advanced Information Technology, the Internet, and Cybersecurity.
Bill S.2539 is the updated version of Bill S.31 and focuses on cybersecurity and artificial intelligence, amending Chapter 7D of the general laws to establish statewide cybersecurity training and definitions related to artificial intelligence.
- 2) *Executive Order No. 629* by Governor Healey established the Artificial Intelligence Strategic Task Force to study AI in private businesses, higher education institutions, and communities. The task force aims to provide recommendations on how the state can support businesses and startups in leveraging AI technology for economic growth.
- 3) *Bill H.1974* aims to regulate the use of AI in mental health services, reflecting an interest in regulating the application of AI to healthcare, a system confronted with particular strain. It awaits further legislative action.
- 4) In May 2023, the City of Boston introduced a policy with a “responsible experimentation approach” to utilize artificial intelligence to improve government efficacy. The policy provides guidance for various scenarios in which AI can be used by public servants, offering specific instructions.

Despite Boston's historical ties to biotechnology and being the birthplace of the term “artificial intelligence,” the city has faced challenges to retain AI companies, often lost to Silicon Valley. Even though considerable research is conducted at local research-intensive institutions such as Harvard University and MIT, a mere three out of a total of 90 high-valuation companies in Massachusetts exceeding \$1 billion, are dedicated to the field of AI. While New York City and Los Angeles have restricted AI's use in public schools due to potential risks, Boston is considering a more welcoming approach to generative AI. By adopting policies that support generative AI, the city hopes to attract and keep AI startups, leading to more jobs with greater pay and increased tax revenue for the city.

These actions reflect a heightened awareness of the necessity to regulate AI technologies. This list strikes a balance of fostering innovation while prioritizing important ethics in their application spanning the diverse Massachusetts sector.

IV. Our Legislative Recommendations

Following a thorough analysis of both unsuccessful and proposed legislation, Encode Justice Massachusetts makes several important conclusions:

- 1) *Policy proposals should be coordinated.* Currently, representatives are in a race to the top for who can pass policy, creating legislation that often is repetitive. For instance, MDPPA and MIPSAs both create vital distinctions between which companies will be affected based on metrics like revenue or size. We believe there is value in centralizing classification. Moreover, many legislations such as HB1974 (AI in mental health) address niche problems with a broad solution. Generally, legislation concerning artificial intelligence typically focuses on a limited set of key concepts:

1. Disclosure that artificial intelligence is being used or data is collected
2. Rights to privacy are protected
3. A mechanism for assessing risk to users

Thus, we believe that Massachusetts should primarily pass legislation that covers the most foundational principles needed for artificial intelligence safety. This should be supported by the newly commissioned team on AI. The legislative timeline would become intuitive, therefore, where policymakers pursue a top-down approach with regulations, reflecting the most basic freedoms of citizens and establishing a precedent for future regulations. In due time, policymakers can build upon such foundational policies.

- 2) *The use of AI in education needs to be clear, direct, and meaningful.* The Massachusetts government has seemingly embraced AI as a tool for efficiency and productivity with Healey seeking to allocate \$100 million to an Applied AI hub. Indeed, the state government stated that: “The funding will be used for a capital grant program to support the adoption and application of AI capabilities to solve public policy problems and to advance the state’s lead in technology sectors.” However, much of this logic becomes contradictory at the educational level. Schools in Massachusetts have yet to formalize a policy that balances education about AI and leveraging AI in the classroom. While Riley’s actions were quick and important, they haven’t done enough to catalyze discussion and change in the educational sphere. The current status quo has no direct

focus, leaving much of the decision to teachers, principles, and students. For instance, BPS report on AI stated that “The Boston Public Schools respects an individual’s choice to use generative AI as an educational and/or productivity tool but encourages all members of the community to take the following steps to ensure appropriate use of generative AI in the classroom and work environment.” Encouragement does not guarantee anything happens. Moreover, administrators pursue unchecked moves against student rights, subjecting them to unnecessary surveillance. Therefore, Encode Justice proposes a new system for SY2024 - SY2025. On the most basic level, the proposal would include resources for teachers, an optional class on AI for students, training for principals and teachers, and a clear and distinguished set of guidelines to abide by. The proposal should embrace the power of AI in classrooms, and teach students about its potential deficiencies.

- 3) *Include more youth voices.* Healey’s commission, established in February 2024, marked an important beginning for AI policy and recommendations in the Massachusetts political landscape. Yet, youth voices are critically missing in this conversation. None of the board members can adequately represent youth perspective or experience in policies formed. Encode Justice Massachusetts represents the voices of youth who deserve a meaningful presence in government. As such, our team has begun discussions with Senator Warren to establish an AI task force, and we're seeking collaboration from other political stakeholders. The Massachusetts commission should appoint a youth leader or designate a member to lead programming and workshops. To ensure fairness in artificial intelligence, it is crucial to involve the next generation.

V. Relevant Stakeholders

Knowing and connecting with this conversation's players are crucial. Encode Justice Massachusetts closely collaborates with important entities, having worked with the ACLU of Massachusetts and engaged with Senator Warren's team. We are also proud members of Harvard University's AI Safety and Alignment Club.

In the context of this discussion, it is noteworthy to identify the following key stakeholders:

- MIT Ethics & AI
- Berkman Klein Center at Harvard
- Massachusetts AI Task Force
- Boston Public Schools
- AFL-CIO Massachusetts
- The AI Institute
- AI Safety at UMass Amherst, proposers of Seldonian Algorithm
- Senator Markey, Governor Healey, Senator Barry Finegold

VI. Conclusion

The Commonwealth has taken a newly energized focus on artificial intelligence. It's increasingly important to introduce artificial intelligence to the Commonwealth with careful consideration and robust policy guidance. Unfortunately, the pace of policymaking has been sluggish and lacking coordination.

Encode Justice Massachusetts, informed by extensive conversation across public, private, and government sectors, outlines a top-down approach to help policymaking become more efficient, exciting a new focus to unlock the full potential of our state as an innovation hub. Engaging in meaningful dialogues with stakeholders is important to us. By articulating the Encode Justice Massachusetts vision, which includes an all-embracing policy agenda, an urgency to define how AI should be integrated in education, as well as incorporating the perspectives of the youth so that future actions align with the priorities of those most profoundly impacted, we can solidify the foundational framework for AI policy in Massachusetts.

Works Cited

- Commonwealth of Massachusetts. "Governor Healey Signs Executive Order Establishing Artificial Intelligence (AI) Strategic Task Force." Governor Maura Healey, 14 Feb. 2024, www.mass.gov/news/governor-healey-signs-executive-order-establishing-artificial-intelligence-ai-strategic-task-force.
- State of California. "Governor Newsom Signs Executive Order to Prepare California for the Progress of Artificial Intelligence." Governor Gavin Newsom, 6 Sept. 2023, www.gov.ca.gov/2023/09/06/governor-newsom-signs-executive-order-to-prepare-california-for-the-progress-of-artificial-intelligence.
- City of New York. The New York City Artificial Intelligence Action Plan. *Mayor Eric Adams*, 1 Oct. 2023, www.nyc.gov/assets/oti/downloads/pdf/reports/artificial-intelligence-action-plan.pdf.
- Neal, Ryan W. "Galvin Launches Investigation Into Brokers' Use of AI." *InvestmentNews*, 3 Aug. 2023, www.investmentnews.com/regulation-and-legislation/news/galvin-launches-investigation-into-brokers-use-of-ai-240703.
- Olson, Kris, and Kris Olson. "Judge Sanctions Attorney Misled by AI, Offers 'Broader Lesson' to Bar | Massachusetts Lawyers Weekly." *Massachusetts Lawyers Weekly*, 26 Feb. 2024, masslawyersweekly.com/2024/02/22/judge-sanctions-attorney-misled-by-ai-offers-broader-lesson-to-bar.
- Dusseault, Bree. "Review Finds States Slow to Give Guidance on How Teachers, Schools Should Use AI." Center on Reinventing Public Education, 11 Dec. 2023, crpe.org/review-finds-states-slow-to-give-guidance-on-how-teachers-schools-should-use-ai.
- Bill S.31*. malegislature.gov/Bills/193/SD1827.
- Bill S.2539*. malegislature.gov/Bills/193/S2539.
- Bill H.1974*. malegislature.gov/Bills/193/H1974.
- City of Boston. "Guidelines for Using Generative AI." *Boston.gov*, 11 May 2023, www.boston.gov/sites/default/files/file/2023/05/Guidelines-for-Using-Generative-AI-2023.pdf. Accessed 5 May 2024.
- Thompson, Khari, and Tiziana Dearing. "Boston Pushing to Reclaim Its Place in the AI Race. But at What Cost? | Radio Boston." *WBUR.org*, 4 May 2023, www.wbur.org/radioboston/2023/05/04/boston-pushing-to-reclaim-its-place-in-the-ai-race-but-at-what-cost.
- Kirsner, Scott. "Boston Needs to Get Smarter About AI." *BostonGlobe.com*, 11 Apr. 2023,

www.bostonglobe.com/2023/04/11/business/boston-needs-get-smarter-about-artificial-intelligence
e.

Racine, Mark. "Guidance on the Use of Artificial Intelligence in BPS." *BPSTechnology*, 3 Oct. 2023,
[bostonpublicschools.helpdocs.io/article/7nvt595hpb-guidance-on-the-use-of-artificial-intelligence](http://bostonpublicschools.helpdocs.io/article/7nvt595hpb-guidance-on-the-use-of-artificial-intelligence-in-bps)
-in-bps.

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