

119TH CONGRESS
1ST SESSION

S. _____

To protect the independent judgment of health care professionals acting in the scope of their practice in overriding AI/CDSS outputs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To protect the independent judgment of health care professionals acting in the scope of their practice in overriding AI/CDSS outputs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Right to Override
5 Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.

2

TITLE I—POLICIES FOR USING AND OVERRIDING AI/CDSS

- Sec. 101. Policies with respect to using and overriding AI/CDSS.
Sec. 102. Enforcement.
Sec. 103. Regulations.

TITLE II—ADVERSE EMPLOYMENT ACTIONS; WHISTLEBLOWER PROTECTIONS

- Sec. 201. Prohibition on adverse employment actions.
Sec. 202. Whistleblower protections.
Sec. 203. Enforcement.
Sec. 204. Regulations.

TITLE III—GENERAL PROVISIONS

- Sec. 301. Educational materials for covered entities and health care professionals.
Sec. 302. State enforcement.
Sec. 303. Rule of construction.
Sec. 304. Non-preemption.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) ADVERSE EMPLOYMENT ACTION.—The term
4 “adverse employment action”, with respect to a
5 health care professional, includes—

6 (A) the termination, suspension, or demo-
7 tion of the health care professional from a job;

8 (B) any disciplinary action or retaliatory
9 investigation against the health care profes-
10 sional;

11 (C) the imposition of a work schedule that
12 is more burdensome to the health care profes-
13 sional;

14 (D) the failure of the health care profes-
15 sional to receive, or any adverse adjustment in

1 the ability of the health care professional to re-
2 ceive, a promotion;

3 (E) the denial of the health care profes-
4 sional in receiving or being eligible to receive—

5 (i) compensation, including the denial
6 of an increase in compensation; or

7 (ii) any other job-related benefit or
8 opportunity, including for telework, train-
9 ing, or travel;

10 (F) revocation of admitting privileges;

11 (G) a reassignment of a duty or the as-
12 signment of a duty inappropriate for the job,
13 skill set, or experience of the health care profes-
14 sional;

15 (H) a change in the ability to practice at
16 a location for which the health care professional
17 would otherwise be able;

18 (I) an adverse evaluation or performance
19 review;

20 (J) any other modification to the terms,
21 conditions, or privileges of employment or work
22 of the health care professional that, from the
23 perspective of a reasonable person, puts the
24 health care professional in a materially adverse

1 position when compared to the position of the
2 professional prior to the modification; and

3 (K) any other action or inaction that re-
4 sults in the health care professional being in a
5 materially adverse position when compared to
6 the position of the professional prior to the ac-
7 tion or inaction.

8 (2) ARTIFICIAL INTELLIGENCE CLINICAL DECI-
9 SION SUPPORT SYSTEM; AI/CDSS.—The term “artifi-
10 cial intelligence clinical decision support system” or
11 “AI/CDSS” means technology that—

12 (A) supports decision-making based on al-
13 gorithms, or models, based in clinical practice
14 guidelines or that derive relationships from
15 training data, including such algorithms or
16 models that are developed using unsupervised
17 learning models; and

18 (B) produces an output that results in a
19 prediction, classification, recommendation, eval-
20 uation, or analysis.

21 (3) AI/CDSS OUTPUT.—The term “AI/CDSS
22 output” means any recommendation, decision, or
23 other output of AI/CDSS.

24 (4) COMMERCE; INDUSTRY OR ACTIVITY AF-
25 FECTING COMMERCE.—The terms “commerce” and

1 “industry or activity affecting commerce” have the
2 meanings given such terms in section 101 of the
3 Family and Medical Leave Act of 1993 (29 U.S.C.
4 2611).

5 (5) COVERED ENTITY.—The term “covered en-
6 tity”—

7 (A) means any individual or entity that—

8 (i) employs, or otherwise engages in
9 the performance of work for remuneration,
10 a health care professional; and

11 (ii) is engaged in commerce (including
12 government), or an industry or activity af-
13 fecting commerce (including government);
14 and

15 (B) includes such an individual or entity
16 that is—

17 (i) a health care facility in any set-
18 ting, such as a nurse’s office in a school
19 setting; or

20 (ii) a health plan or an administrator
21 of a health plan.

22 (6) ENGAGED IN THE PERFORMANCE OF WORK
23 FOR REMUNERATION.—The term “engaged in the
24 performance of work for remuneration”, with respect
25 to an individual performing work for a covered enti-

1 ty, includes the individual having admitting privi-
2 leges for the covered entity without regard to wheth-
3 er such individual is employed by such entity.

4 (7) HEALTH CARE PROFESSIONAL.—The term
5 “health care professional”—

6 (A) means an individual—

7 (i) licensed, registered, or certified
8 under Federal or State laws or regulations
9 to provide health care services; or

10 (ii) required to be so licensed, reg-
11 istered, or certified but that is exempted
12 by other statute or regulation; and

13 (B) includes—

14 (i) an individual described in subpara-
15 graph (A) without regard to whether the
16 individual works at a health care facility,
17 including a home health aide or a home
18 care provider; and

19 (ii) an individual who is employed by,
20 or otherwise engaged in the performance of
21 work for remuneration for, a health plan to
22 make prior authorization determinations or
23 other determinations regarding coverage
24 under a health plan.

1 (8) HEALTH CARE SERVICES.—The term
2 “health care services” means any services that relate
3 to—

4 (A) the diagnosis, prevention, or treatment
5 of any human disease or impairment;

6 (B) the assessment or care of the health of
7 human beings; or

8 (C) making prior authorization determina-
9 tions or other determinations regarding cov-
10 erage under a health plan.

11 (9) HEALTH PLAN.—The term “health plan”
12 has the meaning given the term in section 3000 of
13 the Public Health Service Act (42 U.S.C. 300jj).

14 (10) OVERRIDE.—The term “override”, with re-
15 spect to an AI/CDSS output, means making a deci-
16 sion contrary to such output.

17 (11) OVERRIDE DATA.—The term “override
18 data”—

19 (A) means any data related to adherence
20 to or deviation from AI/CDSS outputs; and

21 (B) includes—

22 (i) any such data that is metadata or
23 audit data; or

24 (ii) any such data related to a par-
25 ticular health care professional or group of

1 health care professionals, or related to a
2 particular AI/CDSS.

3 (12) STATE.—The term “State” has the mean-
4 ing given the term in section 3000 of the Public
5 Health Service Act.

6 **TITLE I—POLICIES FOR USING**
7 **AND OVERRIDING AI/CDSS**

8 **SEC. 101. POLICIES WITH RESPECT TO USING AND OVER-**
9 **RIDING AI/CDSS.**

10 (a) IN GENERAL.—A covered entity that uses AI/
11 CDSS shall—

12 (1) adopt and adhere to a policy with respect to
13 such usage—

14 (A) that ensures that AI/CDSS outputs
15 are not substituted for the independent judg-
16 ment of a health care professional employed by,
17 or otherwise engaged in the performance of
18 work for remuneration for, the covered entity
19 while such health care professional is acting in
20 the scope of practice of such health care profes-
21 sional;

22 (B) that allows such a health care profes-
23 sional to override an AI/CDSS output in a
24 timely manner if, at the time of the override, in
25 the judgment of the health care professional

1 acting in the scope of practice of the health
2 care professional, such an override is appro-
3 priate for the patient, or as necessary to comply
4 with applicable law, including civil rights law;

5 (C) that allows health care professionals
6 and their representatives to provide feedback on
7 AI/CDSS, including incorrect or biased outputs
8 that require frequent override; and

9 (D) that prohibits the sharing of override
10 data on—

11 (i) a specific health care professional;

12 or

13 (ii) a group of health care profes-
14 sionals when the identity of those profes-
15 sionals can be reasonably inferred;

16 (2) inform health care professionals employed
17 by, or otherwise engaged in the performance of work
18 for remuneration for, the covered entity, and the
19 representatives of such health care professionals, of
20 the policy under paragraph (1), including the pres-
21 ence of AI/CDSS in the workplace and the ability of
22 such health care professionals to override an AI/
23 CDSS output;

24 (3) provide training to such health care profes-
25 sionals on—

1 (A) how to use AI/CDSS;

2 (B) the circumstances where an AI/CDSS
3 override is appropriate;

4 (C) how to override an AI/CDSS output;

5 (D) AI/CDSS development processes and
6 any data or other inputs involved in such proc-
7 esses; and

8 (E) any potential limitations for AI/CDSS,
9 including any potential areas of bias in the AI/
10 CDSS;

11 (4) establish and maintain an AI/CDSS com-
12 mittee that shall—

13 (A) convene upon the date that is later
14 of—

15 (i) the date of the adoption of AI/
16 CDSS at the covered entity; or

17 (ii) 120 days after the date of enact-
18 ment of this Act;

19 (B) be comprised of at least as many non-
20 managers as managers;

21 (C) include membership of any labor orga-
22 nization, or other authorized representative, of
23 health care professionals employed by, or other-
24 wise engaged in the performance of work for re-
25 muneration for, the covered entity;

1 (D) provide consultation to the covered en-
2 tity in developing policies and practices related
3 to the use of AI/CDSS, including policy re-
4 quired under subparagraphs (A) through (D) of
5 paragraph (1); and

6 (E) meet at least quarterly to—

7 (i) review implementation of policies
8 adopted by the covered entity with respect
9 to AI/CDSS; and

10 (ii) report to the covered entity on
11 findings and suggestions for improvements;
12 and

13 (5) review—

14 (A) all findings and suggestions from the
15 AI/CDSS committee provided under paragraph
16 (4)(E)(ii); and

17 (B) any other feedback from health care
18 professionals employed by, or otherwise engaged
19 in the performance of work for remuneration
20 for, the covered entity on the AI/CDSS tech-
21 nology and the policies of the entity with re-
22 spect to such technology, including by reviewing
23 any such feedback on patterns of issues with
24 the AI/CDSS, such as incorrect or biased out-
25 puts that require frequent override.

1 (b) DATA SHARING EXCEPTION.—The prohibition
2 under subsection (a)(1)(D) shall not apply—

3 (1) in a case in which a covered entity is in-
4 forming a patient or an authorized representative of
5 a patient about a decision rendered in the adminis-
6 tration of the care of such patient; or

7 (2) in a case of a civil, criminal, or administra-
8 tive action involving medical malpractice, negligence,
9 or violation of any law.

10 (c) OVERSIGHT MECHANISM.—Nothing in this Act
11 shall prohibit a covered entity from reviewing the perform-
12 ance outcomes of AI/CDSS.

13 **SEC. 102. ENFORCEMENT.**

14 (a) IN GENERAL.—Except as provided in subsection
15 (c), the Secretary of Health and Human Services, acting
16 through the Office for Civil Rights (referred to in this title
17 as the “Secretary”), shall receive, investigate, and attempt
18 to resolve, including through imposing civil monetary pen-
19 alties, complaints of violations of this title in the same
20 manner as the Secretary receives, investigates, and at-
21 tempts to resolve, including through imposing civil mone-
22 tary penalties, complaints of violations of part C of title
23 XI of the Social Security Act (42 U.S.C. 1320d et seq.).

24 (b) CIVIL MONETARY PENALTIES.—The provisions of
25 section 1128A of the Social Security Act (42 U.S.C.

1 1320a–7a) (other than subsections (a) and (b) and the
2 second sentence of subsection (f)) shall apply to the im-
3 position of a civil monetary penalty under this section in the
4 same manner as such provisions apply to the imposition
5 of a penalty under such section 1128A.

6 (c) EXCEPTION.—No complaint of a violation of this
7 title shall be referred to the Attorney General for inves-
8 tigation as a criminal violation.

9 **SEC. 103. REGULATIONS.**

10 (a) IN GENERAL.—The Secretary may prescribe such
11 regulations as may be necessary to carry out this title.

12 (b) CONSULTATION.—In prescribing any regulations
13 authorized under this section, the Secretary—

14 (1) shall consult with the Secretary of Labor;
15 and

16 (2) may consult with—

17 (A) other Federal agencies that have ex-
18 pertise in artificial intelligence or health care;
19 and

20 (B) other Federal agencies that have juris-
21 diction over labor and employment issues, in-
22 cluding the Equal Employment Opportunity
23 Commission, the Department of Justice, and
24 the National Labor Relations Board.

1 **TITLE II—ADVERSE EMPLOY-**
2 **MENT ACTIONS; WHISTLE-**
3 **BLOWER PROTECTIONS**

4 **SEC. 201. PROHIBITION ON ADVERSE EMPLOYMENT AC-**
5 **TIONS.**

6 No covered entity shall take an adverse employment
7 action against a health care professional employed by, or
8 otherwise engaged in the performance of work for remuneration for, the covered entity because the health care
9 professional overrides an AI/CDSS output in a manner
10 consistent with the requirements under section 101.

12 **SEC. 202. WHISTLEBLOWER PROTECTIONS.**

13 No covered entity shall discriminate or retaliate (in-
14 cluding through intimidation, threats, coercion, or harass-
15 ment) against any individual employed by, or otherwise
16 engaged in the performance of work for remuneration for,
17 the covered entity—

18 (1) because the individual exercises, or attempts
19 to exercise, any right provided under this Act; or

20 (2) because the individual (or another indi-
21 vidual or representative acting at the request of the
22 individual) has—

23 (A) filed a written or oral complaint to the
24 covered entity or a Federal, State, local, or

1 Tribal government entity of a possible violation
2 of this Act;

3 (B) sought assistance or intervention with
4 respect to an AI/CDSS-related concern from
5 the covered entity, a Federal, State, local, or
6 Tribal government, or any individual or entity
7 representing workers;

8 (C) instituted, caused to be instituted, or
9 otherwise participated in any inquiry or pro-
10 ceeding under or related to this Act;

11 (D) given, or is about to give, any informa-
12 tion in connection with any inquiry or pro-
13 ceeding relating to any right provided under
14 this Act;

15 (E) testified, or is about to testify, in any
16 inquiry or proceeding relating to any right pro-
17 vided under this Act; or

18 (F) discussed a possible violation of this
19 Act with a co-worker.

20 **SEC. 203. ENFORCEMENT.**

21 (a) ENFORCEMENT BY DEPARTMENT OF LABOR.—

22 (1) INVESTIGATION.—

23 (A) IN GENERAL.—To ensure compliance
24 with this title, the Secretary of Labor (referred
25 to in this title as the “Secretary”)—

1 (i) shall have—

2 (I) the investigative authority
3 provided under section 11(a) of the
4 Fair Labor Standards Act of 1938
5 (29 U.S.C. 211(a)); and

6 (II) the subpoena authority pro-
7 vided under section 9 of such Act (29
8 U.S.C. 209); and

9 (ii) may require, by general or special
10 orders, a covered entity to file with the
11 Secretary, in such form as the Secretary
12 may prescribe, annual or special reports or
13 answers in writing to specific questions (in-
14 cluding information and records) as the
15 Secretary may require as to the organiza-
16 tion, business, conduct, practices, manage-
17 ment, and relation to other corporations,
18 partnerships, and individuals, of the cov-
19 ered entity.

20 (B) REPORTS AND ANSWERS.—A covered
21 entity shall file any reports and answers (in-
22 cluding information and records) required
23 under subparagraph (A)(ii) in such manner, in-
24 cluding under oath or otherwise, and within

1 such reasonable time period as the Secretary
2 may require.

3 (C) JOINT INVESTIGATIONS.—The Sec-
4 retary may conduct investigations and make re-
5 quests for information, as authorized under this
6 Act, on a joint basis with another Federal agen-
7 cy, a State attorney general, or a State agency.

8 (D) OBLIGATION TO KEEP, PRESERVE,
9 AND MAKE AVAILABLE RECORDS.—A covered
10 entity shall make, keep, preserve, and make
11 available to the Secretary records pertaining to
12 compliance with this title in accordance with
13 section 11(c) of the Fair Labor Standards Act
14 of 1938 (29 U.S.C. 211(c)) and in accordance
15 with any regulation or order issued by the Sec-
16 retary.

17 (2) ENFORCEMENT.—The Secretary shall re-
18 ceive, investigate, and attempt to resolve complaints
19 of violations of this title in the same manner that
20 the Secretary receives, investigates, and attempts to
21 resolve complaints of violations of sections 6 and 7
22 of the Fair Labor Standards Act of 1938 (29 U.S.C.
23 206 and 207).

24 (3) CIVIL MONETARY PENALTIES.—Subject to
25 subsection (c), the Secretary may impose a civil

1 monetary penalty on any person that violates this
2 title—

3 (A) in an amount of not more than
4 \$76,987 per violation; or

5 (B) for repeat violations, in an amount of
6 not more than \$769,870 per violation.

7 (4) ADMINISTRATIVE COMPLAINTS.—An indi-
8 vidual adversely affected by an alleged violation of
9 this title may—

10 (A) file a complaint of a violation of this
11 title with the Secretary; and

12 (B) designate a representative of a labor
13 organization, regardless of the relationship be-
14 tween the individual and the labor organization,
15 to—

16 (i) file the complaint on behalf of the
17 individual; or

18 (ii) represent the individual for pur-
19 poses of engagement with the Secretary re-
20 garding such complaint, including being
21 present at worker interviews and partici-
22 pating in workplace inspections, con-
23 ferences, and settlement negotiations.

24 (5) LITIGATION.—The Solicitor of Labor may
25 appear for and represent the Secretary on any litiga-

1 tion brought under this subsection. If the Secretary
2 determines that a covered entity has violated this
3 title, the Secretary may file a civil action in any ap-
4 propriate United States district court to obtain in-
5 junctive relief to enforce this title.

6 (6) BURDENS OF PROOF.—All complaints under
7 this subsection shall be governed by the legal bur-
8 dens of proof set forth in section 42121(b) of title
9 49, United States Code.

10 (b) PRIVATE RIGHT OF ACTION.—

11 (1) IN GENERAL.—Notwithstanding any action
12 by the Secretary under subsection (a), any individual
13 adversely affected by an alleged violation of this title
14 (or a representative on behalf of such individual)
15 may commence a civil action against any covered en-
16 tity that violates this title in any Federal court of
17 competent jurisdiction.

18 (2) RELIEF.—

19 (A) IN GENERAL.—In a civil action
20 brought under paragraph (1) in which the indi-
21 vidual described in such paragraph prevails, the
22 court may award the individual—

23 (i) damages of—

1 (I) an amount equal to the sum
2 of any actual damages including back
3 pay sustained by the individual; or

4 (II) not more than treble dam-
5 ages;

6 (ii) statutory damages described in
7 subparagraph (B);

8 (iii) injunctive relief;

9 (iv) equitable relief;

10 (v) reasonable attorney fees and liti-
11 gation costs; and

12 (vi) while the action is pending, tem-
13 porary relief, including temporary rein-
14 statement.

15 (B) STATUTORY DAMAGES.—

16 (i) IN GENERAL.—The court may, in
17 accordance with clause (ii), award statu-
18 tory damages under subparagraph (A)(ii)
19 against a covered entity in the following
20 amounts:

21 (I) For each violation of section
22 201 (regarding adverse employment
23 actions), the court may award dam-
24 ages of an amount (subject to sub-

1 section (c)) of not less than \$5,000
2 and not more than \$20,000.

3 (II) For each violation of section
4 202 (regarding whistleblower protec-
5 tions), the court may award damages
6 of an amount (subject to subsection
7 (c)) of not less than \$10,000 and not
8 more than \$100,000.

9 (ii) CONSIDERATIONS FOR STATUTORY
10 DAMAGES.—In determining the amount of
11 statutory damages assessed under this sub-
12 paragraph against a covered entity, the
13 court shall consider any relevant cir-
14 cumstances presented by the parties to the
15 action, including—

16 (I) the nature and seriousness of
17 the violation;

18 (II) the number of violations;

19 (III) the persistence of the mis-
20 conduct;

21 (IV) the length of time over
22 which the misconduct occurred;

23 (V) the willfulness of the mis-
24 conduct; and

1 (VI) the assets, liabilities, and
2 net worth of the covered entity.

3 (3) REMEDIES FOR STATE WORKERS.—

4 (A) WAIVER OF SOVEREIGN IMMUNITY.—A
5 State's receipt or use of Federal financial as-
6 sistance for any program or activity of a State
7 shall constitute a waiver of sovereign immunity,
8 under the 11th Amendment to the Constitution
9 of the United States or otherwise, to a suit
10 under this subsection for the relief described in
11 paragraph (2) authorized under this subsection
12 brought by an individual employed under, or
13 otherwise engaged in the performance of work
14 for remuneration under, that program or activ-
15 ity.

16 (B) OFFICIAL CAPACITY.—An official of a
17 State may be sued in the official capacity of the
18 official by any individual who has complied with
19 the procedures under this paragraph, for in-
20 junctive relief that is authorized under this sub-
21 section. In such a suit the court may award to
22 the prevailing party those costs authorized by
23 section 722 of the Revised Statutes (42 U.S.C.
24 1988).

1 (C) APPLICABILITY.—With respect to a
2 particular program or activity, subparagraph
3 (A) applies to conduct that occurs—

4 (i) after the date of enactment of this
5 Act; and

6 (ii) on or after the day on which a
7 State first receives or uses Federal finan-
8 cial assistance for that program or activity.

9 (4) DEFINITION OF PROGRAM OR ACTIVITY.—In
10 this subsection, the term “program or activity” has
11 the meaning given the term in section 606 of the
12 Civil Rights Act of 1964 (42 U.S.C. 2000d–4a).

13 (c) INFLATION ADJUSTMENT.—

14 (1) IN GENERAL.—Subject to paragraphs (2)
15 and (3), the Secretary, not later than September 1
16 of each calendar year, shall adjust the dollar
17 amounts referred to in subsections (a)(3) and
18 (b)(2)(B)(i) by the percent increase, if any, in the
19 consumer price index for all urban consumers
20 (United States city average), or a successor index,
21 as determined by the Bureau of Labor Statistics, or
22 a successor agency, for the most recent 12-month
23 period for which data is available.

1 (2) ROUNDING.—Any adjustment under para-
2 graph (1) that is not a multiple of \$10 shall be
3 rounded to the nearest multiple of \$10.

4 (3) PUBLICATION.—The Secretary shall publish
5 the adjusted amounts under paragraph (1) in the
6 Federal Register, and on the official website of the
7 Department of Labor, not later than October 1, of
8 the applicable calendar year for the increase under
9 such paragraph.

10 (4) EFFECTIVE DATE.—Each adjustment under
11 paragraph (1) shall take effect on January 1 of the
12 first calendar year beginning after the date of the
13 increase under such paragraph.

14 (d) ARBITRATION AND CLASS ACTION.—Notwith-
15 standing any other provision of law, no predispute arbitra-
16 tion agreement or predispute joint-action waiver shall be
17 valid or enforceable with respect to any alleged violation
18 of this title.

19 **SEC. 204. REGULATIONS.**

20 (a) IN GENERAL.—The Secretary may prescribe such
21 regulations as may be necessary to carry out this title.

22 (b) CONSULTATION.—In prescribing any regulations
23 authorized under this section, the Secretary—

24 (1) shall consult with the Secretary of Health
25 and Human Services; and

1 (2) may consult with—

2 (A) other Federal agencies that have ex-
3 pertise in artificial intelligence or health care;
4 and

5 (B) other Federal agencies that have juris-
6 diction over labor and employment issues, in-
7 cluding the Equal Employment Opportunity
8 Commission, the Department of Justice, and
9 the National Labor Relations Board.

10 **TITLE III—GENERAL**
11 **PROVISIONS**

12 **SEC. 301. EDUCATIONAL MATERIALS FOR COVERED ENTI-**
13 **TIES AND HEALTH CARE PROFESSIONALS.**

14 Not later than 1 year after the date of enactment
15 of this Act, the Secretary of Health and Human Services,
16 in consultation with the Secretary of Labor, shall develop
17 and disseminate education materials for—

18 (1) covered entities with respect to the compli-
19 ance of such entities with the requirements under
20 this Act; and

21 (2) health care professionals to inform such
22 professionals of their rights and protections under
23 this Act.

1 **SEC. 302. STATE ENFORCEMENT.**

2 (a) IN GENERAL.—In any case in which a State at-
3 torney general or a State privacy regulator has reason to
4 believe that an interest of the residents of a State has been
5 or is adversely affected by any covered entity that violates
6 any provision of this Act, the State attorney general or
7 State privacy regulator, as *parens patriae*, may bring a
8 civil action on behalf of the residents of the State in an
9 appropriate State court or an appropriate district court
10 of the United States to—

11 (1) enjoin further violation of such provision by
12 the covered entity;

13 (2) compel compliance with such provision;

14 (3) obtain damages, civil penalties, restitution,
15 or other compensation on behalf of the residents of
16 the State; or

17 (4) obtain reasonable attorney’s fees and other
18 litigation costs reasonably incurred.

19 (b) RIGHTS OF AGENCY.—Before initiating a civil ac-
20 tion under subsection (a), the State attorney general or
21 State privacy regulator, as the case may be, shall notify
22 the Secretary in writing of such civil action. Upon receiv-
23 ing such notice, the Secretary may—

24 (1) intervene in such action; and

25 (2) upon intervening—

1 (A) be heard on all matters arising in such
2 civil action; and

3 (B) file petitions for appeal of a decision in
4 such action.

5 (c) PREEMPTIVE ACTION BY AGENCY.—In any case
6 in which a civil action is instituted by or on behalf of the
7 Secretary for a violation of this Act, a State attorney gen-
8 eral or State privacy regulator may not, during the pend-
9 ency of such action, institute a civil action against any
10 defendant named in the complaint in the action instituted
11 by or on behalf of the Secretary for a violation that is
12 alleged in such complaint. In a case brought by the Sec-
13 retary that affects the interests of a State, the State attor-
14 ney general or State privacy regulator may intervene as
15 of right pursuant to the Federal Rules of Civil Procedure.

16 (d) PRESERVATION OF STATE POWERS.—Except as
17 provided in subsection (c), no provision of this Act shall
18 be construed as altering, limiting, or affecting the author-
19 ity of a State attorney general or State privacy regulator
20 to—

21 (1) bring an action or other regulatory pro-
22 ceeding arising solely under the laws in effect in that
23 State; or

24 (2) exercise the powers conferred on the State
25 attorney general or State privacy regulator by the

1 laws of the State, including the ability to conduct in-
2 vestigations, administer oaths or affirmations, or
3 compel the attendance of witnesses or the production
4 of documentary or other evidence.

5 (e) DEFINITION OF SECRETARY.—In this section, the
6 term “Secretary” means—

7 (1) with respect to a violation of title I, the Sec-
8 retary of Health and Human Services; and

9 (2) with respect to a violation of title II, the
10 Secretary of Labor.

11 **SEC. 303. RULE OF CONSTRUCTION.**

12 Nothing in this Act shall protect a health care profes-
13 sional from a medical malpractice or negligence claim for
14 health care services provided through overriding an AI/
15 CDSS output.

16 **SEC. 304. NON-PREEMPTION.**

17 Nothing in this Act shall preempt a State law or col-
18 lective bargaining agreement.