Proskauer

Artificial Intelligence: Employment Law Risks and Considerations

Global Legal Insights on **May 27, 2021**

Employers have become increasingly reliant on artificial intelligence (“AI”) in connection with managing many facets of the employment lifecycle including hiring, performance management, and termination decisions. Companies are using automated technology to screen résumés, analyse video interviews, suggest (or outright select) which candidates to hire, track employee productivity, issue written discipline, or recommend termination of employment. The rush to adopt this automated technology is the quest for enhanced efficiency in employment decision-making, reducing time spent on such tasks that consume significant amounts of time of management and Human Resources personnel.

The increased use of AI, however, comes with attendant risks including the significant risk that automated algorithms, like humans, are not immune from bias. Indeed, algorithms are capable of adopting the inherent biases underlying past employment practices or social conventions embedded in their code, through the data sets they rely upon. In this regard, reliance on computerised decision-making can unknowingly cause employers to make decisions that implicate laws governing the employment relationship; laws which could not have reasonably contemplated the widespread use of AI in the employment context at the time they were written. This chapter will examine some of the potential legal implications that may arise from the use of AI in the workplace as well as the legislative and regulatory response to the increased presence of AI in the workplace.

Originally published in Global Legal Insights - *AI, Machine Learning & Big Data 2021*

Related Professionals

- **Edward C. Young**
  Senior Counsel