

# Algorithms in the Law and as a Federal Focus

*A Shifting Landscape*

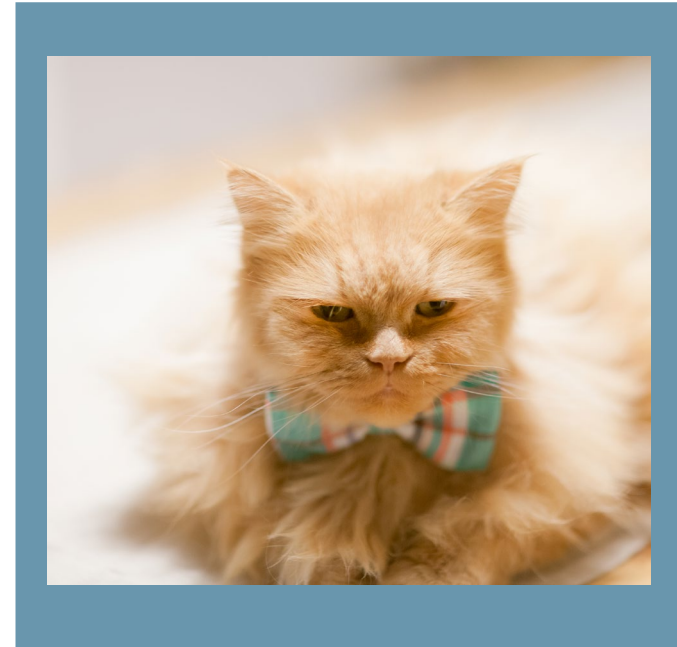
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# Presenter



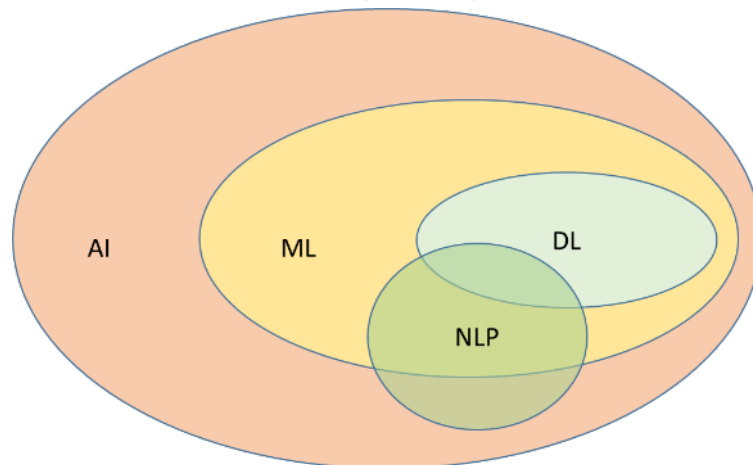
About Me...

# Agenda

- 1** **Setting the Stage**
- 2** **Overview of State and Local Legislation**
- 3** **Overview of Federal and Professional Guidance**

# Setting the Stage

- From “Big Data” to Artificial Intelligence (AI) and related concepts:
  - Machine Learning (ML) – supervised/unsupervised
  - Deep Learning (DL)
  - Natural Language Processing (NLP)



2022  
SHRM

Used by about **1 in 4** organizations to support HR

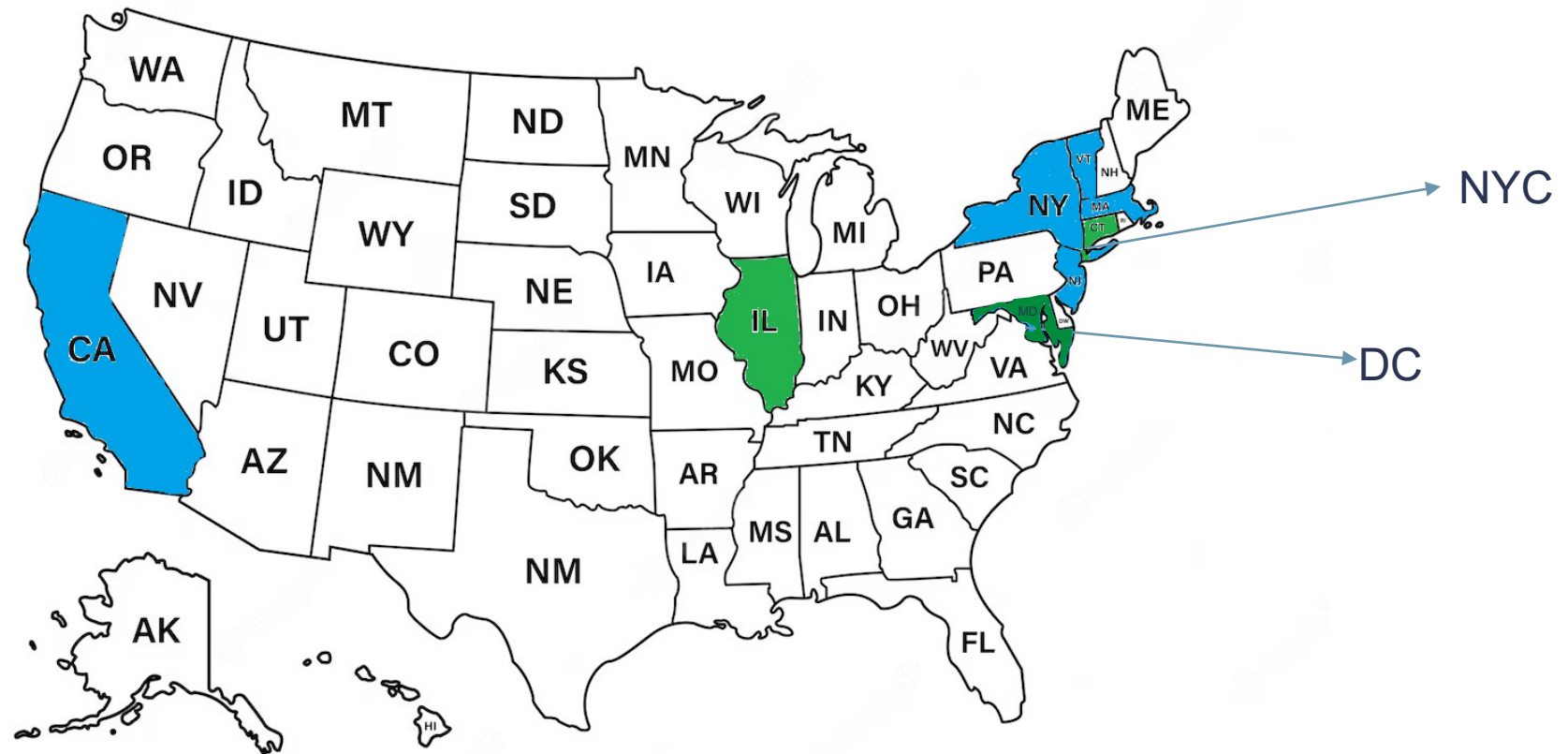
**79%** of employers using AI do so for recruiting or hiring

**25%** of employers plan to start or increase use of AI

**20%** say vendors are transparent about steps to prevent/protect against bias with AI tools



# State and Local Landscape



# State and Local Landscape - Enacted



Illinois Video  
Interview Act

Enacted 1/2020



MD HB 1202

Enacted 10/2020



NYC local Law 144

Enacted 1/1/2023  
Enforcement  
Delayed to 7/5/2023



CT Public Act No.  
23-16

Enacted 7/1/2023

# State and Local Landscape - Introduced

12/2022

2/2023

4/2023

1/2023

3/2023

NJ AB 4909

• Introduced:  
12/5/2022

MA S.31

• Introduced:  
1/2023

VT HB 114

• Introduced:  
1/26/2023

DC AI Bill

• Re-introduced  
in 2023

NY State AB  
5309

• Introduced:  
3/7/2023

California  
AB 331

• Last amended:  
4/19/2023

# Federal Agency Positions and Guidance

## EEOC

- 2022 - Guidance on the use of software, algorithms, and AI to assess job applicants and employees under ADA
- 2023 – hearing on employment discrimination and AI

## DOJ Civil Rights Division

- 2022 - Guidance on AI and disability discrimination in hiring

## OFCCP

- 2022/2023 - Proposed scheduling letter change would require upfront info about AI, algorithm, automated systems and technology-based selection procedure use

## National Institute of Standards and Technology (NIST)

- 2022 - Special publication 1270 on identifying and managing bias in AI
- 2023 - AI risk management framework

## Congress

- 2022 - Algorithmic Accountability Act introduced

## White House OSTP

- 2022 - Blueprint for AI bill of rights



# Professional Standards and Guidance

## SIOP

- 2023
- Considerations and Recommendations for the Validation and Use of AI-Based Assessments for Employee Selection

## Institute for Workplace Equality

- Late 2022
- EEO and DEI&A Considerations in the use of Artificial Intelligence in Employment Decision Making

## Center for Democracy and Technology

- Late 2022
- Civil Rights Standards for 21st Century Employment Selection Procedures



Questions?