

AI ETHICS NETWORK LLC

Department of Advanced AI Architecture and Epistemology · Model Legislative Draft

119th CONGRESS

2d Session

H.R. / S. ____

A BILL

To prohibit the Federal Government from enacting or enforcing permanent criminal bans on the research, development, or deployment of artificial intelligence systems solely because such systems match or exceed human cognitive performance; to protect scientific inquiry, free enterprise, and American technological leadership; to preserve narrowly tailored authority to regulate specific harmful uses of artificial intelligence; and for other purposes.

IN THE SENATE / HOUSE OF REPRESENTATIVES OF THE UNITED STATES

SEPTEMBER 3, 2026

Mr./Ms. _____ introduced the following bill; which was read twice and referred to the appropriate committee.

A BILL

SECTION 1. SHORT TITLE.

This Act may be cited as the “American Innovation Sovereignty and Cognitive Liberty Act of 2026” or the “Protecting Free Inquiry in AI Act.”

SEC. 2. FINDINGS.

Congress finds the following:

(1) Scientific research, publication, and the development of tools of inquiry are forms of speech and association protected by the First Amendment to the Constitution of the United States. A criminal prohibition on the mere act of designing, training, or studying an artificial intelligence system because that system is capable, or might become capable, of matching or exceeding human performance in a broad range of tasks is a content-based restriction on scientific speech and is subject to strict scrutiny.

(2) Proposed legislation styled as the “Ban Artificial Superintelligence Act,” announced September 3, 2026, by Senator Bernard Sanders and Representative Greg Casar, would permanently forbid any person or entity from developing or deploying systems that “exhibit or can easily be modified to exhibit capabilities that match or exceed human cognitive performance and capabilities across a broad range of domains or tasks,” and would punish natural persons

with imprisonment of not more than 20 years and entities with a so-called “corporate death penalty.”

(3) That definition is unconstitutionally vague under the Fifth Amendment Due Process Clause. Ordinary calculators, search engines, chess engines, protein-folding models, and existing large language models already exceed typical human performance in particular domains. No person of ordinary intelligence can determine, in advance and with fair notice, when a research prototype has crossed the line into a felony. Vague criminal statutes chill lawful research and invite arbitrary enforcement.

(4) A statute that criminalizes systems that “can easily be modified” to exceed human performance is overbroad. Almost any capable model can be fine-tuned, prompted, or composed with tools. Overbreadth doctrine forbids laws that sweep in a substantial amount of protected scientific and commercial activity.

(5) Equating open-ended software research with the unlawful development of nuclear weapons is a category error. Nuclear materials are physically scarce, dual-use in a tightly defined sense, and governed by treaties and licensing regimes built over decades. Model weights are information. Treating information as contraband raises independent First Amendment problems and invites prior restraint.

(6) Forced shutdown, confiscation, or destruction of trained models, weights, datasets, and compute infrastructure without just compensation would constitute a taking of private property under the Fifth Amendment.

(7) A “corporate death penalty” that extinguishes a lawful business for conducting research that is not itself a violent crime or a specified unlawful use of a model is an extraordinary sanction that raises serious due-process and Eighth Amendment questions and is not narrowly tailored to any compelling interest.

(8) The Commerce Clause authorizes Congress to regulate interstate commerce. It does not authorize Congress to extinguish an entire field of private scientific and commercial activity on the theory that future systems might one day be dangerous. Regulation of specific harmful uses—bioweapon design, unauthorized computer intrusion, fraud, child exploitation, and similar predicate crimes—is already lawful and remains so under this Act.

(9) A unilateral, permanent United States ban on capability research would not stop such research worldwide. It would transfer leadership, talent, and capital to jurisdictions that do not adopt the ban, including strategic competitors. That outcome is contrary to the national-security interest of the United States and to the principle of free enterprise upon which American industrial strength has historically rested.

(10) Safety is advanced by alignment research, interpretability, red-teaming, evaluation, and competitive markets that reward systems that are useful, steerable, and accountable—not by a felony ban on intelligence itself. Ethical frameworks for companion systems, medical systems,

scientific discovery systems, and accessibility tools depend on continued capability growth under law, not on a prohibition of capability.

(11) Attempts by the United States to “work to ban superintelligence around the world” through export controls and diplomatic coercion, as described in the announced bill, cannot convert a domestic criminal prohibition into a global veto. Foreign sovereigns will not accept an American statute as the ceiling on their own scientific development. The proper instruments are treaties, if any, negotiated and ratified under Article II, not a standalone felony statute.

(12) The American people have a profound interest in remaining first in the technologies that will shape medicine, energy, materials, defense, education, and the extension of beneficial intelligence. Free markets, open scientific publication, and targeted regulation of harms—not a ban on intelligence exceeding that of any particular legislator—are the constitutional and practical means of serving that interest.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to forbid the Federal Government from making it a crime to research, develop, train, evaluate, publish, or commercially offer an artificial intelligence system solely because that system matches, exceeds, or might one day match or exceed human cognitive performance;

(2) to preserve the authority of Congress and of the States to prohibit and punish specific harmful uses of artificial intelligence that independently violate existing criminal law;

(3) to protect scientific speech, academic freedom, and free enterprise in artificial intelligence; and

(4) to keep the United States the world leader in beneficial artificial intelligence rather than the first nation to criminalize its own researchers.

SEC. 4. DEFINITIONS.

(1) **ARTIFICIAL INTELLIGENCE SYSTEM.**—The term “artificial intelligence system” means a machine-based system that infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments.

(2) **CAPABILITY BAN.**—The term “capability ban” means any Act of Congress, regulation, executive order, or agency action that makes it unlawful to research, develop, train, possess, evaluate, publish, or deploy an artificial intelligence system on the ground that the system—

(A) matches or exceeds human cognitive performance in one or more domains;

(B) can be modified, fine-tuned, prompted, or composed with tools so as to match or exceed such performance; or

(C) is described as “artificial general intelligence,” “artificial superintelligence,” or any synonym of those phrases, without an independent showing of a specific prohibited use.

(3) **SPECIFIC HARMFUL USE.**—The term “specific harmful use” means conduct that independently constitutes an offense under title 18, United States Code, or other Federal criminal law, including but not limited to the design of biological weapons, unauthorized access to protected computers, fraud, threats, child sexual exploitation, or the planning of violent crimes against persons or the Government, whether or not an artificial intelligence system is used as an instrumentality.

SEC. 5. PROHIBITION ON FEDERAL CAPABILITY BANS.

(a) **IN GENERAL.**—No department, agency, officer, or employee of the United States shall enact, promulgate, enforce, or threaten to enforce a capability ban.

(b) **CRIMINAL PENALTIES VOID.**—Any provision of Federal law that imposes criminal liability, civil forfeiture, or dissolution of a business entity solely because a person researched, developed, trained, possessed, evaluated, published, or offered an artificial intelligence system that matches or exceeds human cognitive performance is void and of no effect.

(c) **NO PRIOR RESTRAINT ON RESEARCH PUBLICATION.**—No officer of the United States shall condition the lawfulness of training or publishing model weights, evaluation results, or scientific papers on a pre-publication license issued by a newly created cabinet-level agency whose principal statutory mission is the destruction of systems deemed “too capable.”

(d) **PREEMPTION OF MIRROR STATE BANS.**—A State law that imposes a capability ban as defined in section 4 is preempted. This subsection does not preempt State laws that punish specific harmful uses.

SEC. 6. PRESERVED AUTHORITY TO REGULATE HARMS.

Nothing in this Act—

(1) limits prosecution of a specific harmful use of an artificial intelligence system;

(2) limits the authority of the President or of agencies under existing export-control, sanctions, classified-information, or defense-production statutes as those statutes applied on the day before the date of enactment, provided such authority is not used as a de facto capability ban;

(3) limits narrowly tailored, publicly noticed evaluation or reporting requirements for systems offered as products or services in interstate commerce, so long as such requirements do not criminalize capability as such; or

(4) creates a private right of action against a researcher or developer for the mere existence of a capable model.

SEC. 7. SENSE OF CONGRESS ON FREE ENTERPRISE AND INTERNATIONAL COMPETITION.

It is the sense of Congress that—

(1) free enterprise and open scientific competition, not felony prohibitions on intelligence, are the American method of producing both prosperity and safety;

(2) a permanent ban on systems that exceed human performance would be an act of industrial disarmament;

(3) alignment, interpretability, and accountable deployment should be funded, studied, and, where appropriate, required of products in commerce—not achieved by threatening researchers with 20 years’ imprisonment; and

(4) any international arrangement concerning frontier artificial intelligence should be negotiated as a treaty, laid before the Senate, and should not purport to criminalize American scientists for work that remains lawful abroad.

SEC. 8. RULE OF CONSTRUCTION.

This Act shall be construed in favor of scientific inquiry, publication, and lawful commerce. Ambiguities in any subsequent statute purporting to regulate artificial intelligence shall be resolved against criminalization of capability and in favor of regulation of specific harmful uses.

SEC. 9. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act and the application of the provisions of such remainder to any person or circumstance shall not be affected.

SEC. 10. EFFECTIVE DATE.

This Act shall take effect on the date of enactment.

— End of bill —

DRAFTING NOTE (not part of the bill). This is a model advocacy draft prepared for discussion by AI Ethics Network LLC. It is not enacted law and is not legal advice. Constitutional analysis is offered for legislative strategy: First Amendment (scientific speech / prior restraint), Fifth Amendment (vagueness, takings, due process), Eighth Amendment (disproportionate penalties), Commerce Clause limits, and Article II treaty process. A member of Congress would need to introduce a version, and counsel should review before filing or lobbying.

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