

118TH CONGRESS  
2D SESSION

# S. 5379

To create an administrative subpoena process to assist copyright owners in determining which of their copyrighted works have been used in the training of artificial intelligence models.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 21, 2024

Mr. WELCH introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To create an administrative subpoena process to assist copyright owners in determining which of their copyrighted works have been used in the training of artificial intelligence models.

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 “Transparency and Re-  
5 sponsibility for Artificial Intelligence Networks Act” or  
6 the “TRAIN Act”.

1 **SEC. 2. SUBPOENA FOR COPIES OR RECORDS RELATING TO**  
2 **ARTIFICIAL INTELLIGENCE MODELS.**

3 (a) IN GENERAL.—Chapter 5 of title 17, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6 **“§ 514. Subpoena for copies or records relating to ar-**  
7 **tificial intelligence models**

8 “(a) DEFINITIONS.—In this section:

9 “(1) ARTIFICIAL INTELLIGENCE.—The term  
10 ‘artificial intelligence’ has the meaning given the  
11 term in section 5002 of the National Artificial Intel-  
12 ligence Initiative Act of 2020 (15 U.S.C. 9401).

13 “(2) ARTIFICIAL INTELLIGENCE MODEL.—The  
14 term ‘artificial intelligence model’ means a compo-  
15 nent of an information system that implements arti-  
16 ficial intelligence technology and uses computational,  
17 statistical, or machine-learning techniques to  
18 produce outputs from a given set of inputs.

19 “(3) GENERATIVE ARTIFICIAL INTELLIGENCE  
20 MODEL.—The term ‘generative artificial intelligence  
21 model’ means an artificial intelligence model that  
22 emulates the structure and characteristics of input  
23 data in order to generate derived synthetic content,  
24 which may include images, videos, audio, text, and  
25 other digital content.

1           “(4) MODEL DEVELOPER OR DEPLOYER.—The  
2           term ‘model developer or deployer’ means a person  
3           that develops or deploys a generative artificial intel-  
4           ligence model.

5           “(b) REQUEST.—The legal or beneficial owner of an  
6           exclusive right under a copyright, or a person authorized  
7           to act on the owner’s behalf, may request the clerk of any  
8           United States district court to issue a subpoena to a model  
9           developer or deployer for disclosure of copies of, or records  
10          sufficient to identify with certainty, the copyrighted works,  
11          or any portion thereof, likely owned or controlled by the  
12          legal or beneficial owner that were used by the model de-  
13          veloper or deployer to train the generative artificial intel-  
14          ligence model, if the legal or beneficial owner or authorized  
15          person has a subjective good faith belief that the model  
16          developer or deployer used some or all of 1 or more such  
17          copyrighted works to train the generative artificial intel-  
18          ligence model.

19          “(c) CONTENTS OF REQUEST.—A request under sub-  
20          section (b) may be made by filing with the clerk—

21                 “(1) a proposed subpoena; and

22                 “(2) a sworn declaration to the effect that—

23                         “(A) the legal or beneficial owner or au-  
24                         thorized person has a subjective good faith be-  
25                         lief that the model developer or deployer used

1           some or all of 1 or more of the copyrighted  
2           works owned or controlled by the legal or bene-  
3           ficial owner to train the generative artificial in-  
4           telligence model;

5           “(B) the purpose for which the subpoena is  
6           sought is to obtain copies of the training mate-  
7           rial, or records sufficient to identify with cer-  
8           tainty the training material, used to train the  
9           generative artificial intelligence model in order  
10          to determine whether the model developer or  
11          deployer has used copyrighted works owned or  
12          controlled by the legal or beneficial owner in  
13          connection with the generative artificial intel-  
14          ligence model; and

15          “(C) the copies or records will only be used  
16          for the purpose of protecting the rights of the  
17          legal or beneficial owner.

18          “(d) CONTENTS OF SUBPOENA.—A subpoena issued  
19          pursuant to a request under subsection (b) shall authorize  
20          and order the model developer or deployer receiving the  
21          subpoena to expeditiously disclose to the legal or beneficial  
22          owner or authorized person all records described in that  
23          subsection.

24          “(e) BASIS FOR GRANTING SUBPOENA.—If a pro-  
25          posed subpoena described in subsection (c)(1) is in proper

1 form, and the accompanying declaration described in sub-  
2 section (e)(2) is properly executed, the clerk shall expedi-  
3 tiously issue and sign the proposed subpoena and return  
4 it to the requester for delivery to the model developer or  
5 deployer.

6       “(f) ACTIONS OF MODEL DEVELOPER OR DEPLOYER  
7 RECEIVING SUBPOENA.—Upon receipt of a subpoena  
8 issued under subsection (e), a model developer or deployer  
9 shall expeditiously disclose to the legal or beneficial owner  
10 or authorized person the copies or records requested by  
11 the subpoena.

12       “(g) RULES APPLICABLE TO SUBPOENA.—Unless  
13 otherwise provided by this section or by applicable rules  
14 of the court, the procedure for issuance and delivery of  
15 a subpoena issued under subsection (e), and the remedies  
16 for noncompliance with the subpoena, shall be governed  
17 to the greatest extent practicable by the provisions of the  
18 Federal Rules of Civil Procedure governing the issuance,  
19 service, and enforcement of a subpoena duces tecum.

20       “(h) REBUTTABLE PRESUMPTION.—If a model devel-  
21 oper or deployer fails to comply with a subpoena issued  
22 under subsection (e), that failure shall provide a rebutta-  
23 ble presumption that the model developer or deployer  
24 made copies of the copyrighted work.

1       “(i) EFFECTIVE DATE.—This section shall take ef-  
2       fect on the date of enactment of this section.”.

3       (b) TECHNICAL AND CONFORMING AMENDMENT.—

4       The table of sections for chapter 5 of title 17, United  
5       States Code, is amended by adding at the end the fol-  
6       lowing:

“514. Subpoena for copies or records relating to artificial intelligence models.”.

