
HOUSE BILL 2366

State of Washington

66th Legislature

2020 Regular Session

By Representatives Smith, Hudgins, and Young

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1 AN ACT Relating to making the chief privacy officer an elected
2 position; amending RCW 43.105.369, 43.01.010, 29A.32.031, 29A.36.121,
3 and 43.03.010; adding a new section to chapter 29A.04 RCW; adding a
4 new section to chapter 42.17A RCW; creating a new section; providing
5 an effective date; and providing an expiration date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that unrelenting
8 advances in information technology are raising new and complex issues
9 of critical concern to the public nearly every day. Many of these
10 issues relate to personal data and its security. Data privacy and
11 security issues implicate core democratic values and first amendment
12 freedoms, such as the compiling of data about who we associate with
13 and what our political or religious preferences may be.

14 (2) The legislature statutorily established the position of chief
15 privacy officer within the office of privacy and data protection in
16 2016, shortly after the governor created the office through executive
17 order 16-01. The legislature continues to find that a full-time data
18 privacy officer fulfills many valuable roles and functions, including
19 educating consumers, researching best practices, providing privacy
20 training for state agencies, and consulting with stakeholders to help
21 shape policy regarding data privacy and security.

1 (3) The legislature finds that while the state has statutorily
2 defined the role of the chief privacy officer position since 2016,
3 experience has shown that there needs to be improvements to how that
4 position is structured. The position can be filled only by the
5 governor or the state's chief information officer, without the advice
6 and consent of lawmakers. It is filled without the privacy officer's
7 views about privacy and how to balance consumer protection and
8 commercial freedom being subject to public scrutiny and debate. In
9 2019 the position was vacant for prolonged periods during which
10 momentous data privacy legislation was under development by
11 stakeholders and lawmakers. As the public sector does not compensate
12 for information technology jobs at the level of the private sector,
13 vacancies can be anticipated to occur in the future during times that
14 important events impacting public policy choices are unfolding.

15 (4) The legislature finds that the public should have a say in
16 the quality and style of advocacy of its chief data privacy officer.
17 The public should also have the opportunity to elect someone who best
18 articulates, prioritizes, and promotes his or her vision of the
19 future of privacy and data security. Requiring the chief privacy
20 officer to stand for election and make a public case for certain
21 priorities and principles will give additional weight to the
22 officer's policy guidance to lawmakers and state agency officials.
23 Therefore, the legislature intends to make the state's chief privacy
24 officer a statewide elected official. The legislature intends the
25 chief privacy officer to continue to be the director of the existing
26 office of privacy and data protection, having the same duties. The
27 legislature intends the chief privacy officer and office of privacy
28 and data protection to be housed within the office of the chief
29 information officer, but not subject to its supervision, for
30 administrative simplicity and cost efficiency.

31 **Sec. 2.** RCW 43.105.369 and 2016 c 195 s 2 are each amended to
32 read as follows:

33 (1) The office of privacy and data protection is created within
34 the office of the state chief information officer. The purpose of the
35 office of privacy and data protection is to serve as a central point
36 of contact for state agencies on policy matters involving data
37 privacy and data protection.

38 (2) The ((director shall appoint the)) chief privacy officer((
39 who)) is the director of the office of privacy and data protection.

1 The office of the chief privacy officer is a state office elected in
2 accordance with Title 29A RCW.

3 (3) The primary duties of the office of privacy and data
4 protection with respect to state agencies are:

5 (a) To conduct an annual privacy review;

6 (b) To conduct an annual privacy training for state agencies and
7 employees;

8 (c) To articulate privacy principles and best practices;

9 (d) To coordinate data protection in cooperation with the agency;
10 and

11 (e) To participate with the office of the state chief information
12 officer in the review of major state agency projects involving
13 personally identifiable information.

14 (4) The office of privacy and data protection must serve as a
15 resource to local governments and the public on data privacy and
16 protection concerns by:

17 (a) Developing and promoting the dissemination of best practices
18 for the collection and storage of personally identifiable
19 information, including establishing and conducting a training program
20 or programs for local governments; and

21 (b) Educating consumers about the use of personally identifiable
22 information on mobile and digital networks and measures that can help
23 protect this information.

24 (5) By December 1, 2016, and every four years thereafter, the
25 office of privacy and data protection must prepare and submit to the
26 legislature a report evaluating its performance. The office of
27 privacy and data protection must establish performance measures in
28 its 2016 report to the legislature and, in each report thereafter,
29 demonstrate the extent to which performance results have been
30 achieved. These performance measures must include, but are not
31 limited to, the following:

32 (a) The number of state agencies and employees who have
33 participated in the annual privacy training;

34 (b) A report on the extent of the office of privacy and data
35 protection's coordination with international and national experts in
36 the fields of data privacy, data protection, and access equity;

37 (c) A report on the implementation of data protection measures by
38 state agencies attributable in whole or in part to the office of
39 privacy and data protection's coordination of efforts; and

1 (d) A report on consumer education efforts, including but not
2 limited to the number of consumers educated through public outreach
3 efforts, as indicated by how frequently educational documents were
4 accessed, the office of privacy and data protection's participation
5 in outreach events, and inquiries received back from consumers via
6 telephone or other media.

7 (6) Within one year of June 9, 2016, the office of privacy and
8 data protection must submit to the joint legislative audit and review
9 committee for review and comment the performance measures developed
10 under subsection (5) of this section and a data collection plan.

11 (7) The office of privacy and data protection shall submit a
12 report to the legislature on the: (a) Extent to which
13 telecommunications providers in the state are deploying advanced
14 telecommunications capability; and (b) existence of any inequality in
15 access to advanced telecommunications infrastructure experienced by
16 residents of tribal lands, rural areas, and economically distressed
17 communities. The report may be submitted at a time within the
18 discretion of the office of privacy and data protection, at least
19 once every four years, and only to the extent the office of privacy
20 and data protection is able to gather and present the information
21 within existing resources.

22 **Sec. 3.** RCW 43.01.010 and 1965 c 8 s 43.01.010 are each amended
23 to read as follows:

24 The governor, lieutenant governor, secretary of state, treasurer,
25 auditor, attorney general, superintendent of public instruction,
26 commissioner of public lands, (~~and~~) insurance commissioner, and
27 chief privacy officer, shall hold office for the term of four years,
28 and until their successors are elected and qualified; and the term
29 shall commence on the Wednesday after the second Monday of January
30 following their election.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 29A.04
32 RCW to read as follows:

33 (1) The first election for the chief privacy officer shall be
34 held at the general election in November 2024.

35 (2) The office of chief privacy officer shall be considered a
36 state office for purposes of this title.

37 (3) The election shall be conducted in accordance with this
38 title.

1 (4) Candidates for the first general election for the chief
2 privacy officer shall file for office as provided in chapter 29A.24
3 RCW during the filing period in 2024, and a primary election shall be
4 held as provided in chapter 29A.52 RCW.

5 (5) This section expires February 1, 2025.

6 **Sec. 5.** RCW 29A.32.031 and 2013 c 283 s 2 are each amended to
7 read as follows:

8 The voters' pamphlet published or distributed under RCW
9 29A.32.010 must contain:

10 (1) Information about each measure for an advisory vote of the
11 people and each ballot measure initiated by or referred to the voters
12 for their approval or rejection as required by RCW 29A.32.070;

13 (2) In even-numbered years, statements, if submitted, from
14 candidates for the office of president and vice president of the
15 United States, United States senator, United States representative,
16 governor, lieutenant governor, secretary of state, state treasurer,
17 state auditor, attorney general, commissioner of public lands,
18 superintendent of public instruction, insurance commissioner, chief
19 privacy officer, state senator, state representative, justice of the
20 supreme court, judge of the court of appeals, or judge of the
21 superior court. Candidates may also submit campaign contact
22 information and a photograph not more than five years old in a format
23 that the secretary of state determines to be suitable for
24 reproduction in the voters' pamphlet;

25 (3) In odd-numbered years, if any office voted upon statewide
26 appears on the ballot due to a vacancy, then statements and
27 photographs for candidates for any vacant office listed in subsection
28 (2) of this section must appear;

29 (4) Contact information for the public disclosure commission
30 established under RCW 42.17A.100, including the following statement:
31 "For a list of the people and organizations that donated to state and
32 local candidates and ballot measure campaigns, visit www.pdc.wa.gov."
33 The statement must be placed in a prominent position, such as on the
34 cover or on the first two pages of the voters' pamphlet. The
35 secretary of state may substitute such language as is necessary for
36 accuracy and clarity and consistent with the intent of this section;

37 (5) Contact information for major political parties;

38 (6) A brief statement explaining the deletion and addition of
39 language for proposed measures under RCW 29A.32.080; and

1 (7) Any additional information pertaining to elections as may be
2 required by law or in the judgment of the secretary of state is
3 deemed informative to the voters.

4 **Sec. 6.** RCW 29A.36.121 and 2013 c 11 s 42 are each amended to
5 read as follows:

6 (1) The positions or offices on a primary consolidated ballot
7 shall be arranged in substantially the following order: United States
8 senator; United States representative; governor; lieutenant governor;
9 secretary of state; state treasurer; state auditor; attorney general;
10 commissioner of public lands; superintendent of public instruction;
11 insurance commissioner; chief privacy officer; state senator; state
12 representative; county officers; justices of the supreme court;
13 judges of the court of appeals; judges of the superior court; and
14 judges of the district court. For all other jurisdictions on the
15 primary ballot, the offices in each jurisdiction shall be grouped
16 together and be in the order of the position numbers assigned to
17 those offices, if any.

18 (2) The order of the positions or offices on a general election
19 ballot shall be substantially the same as on a primary ballot except
20 that state ballot issues must be placed before all offices. The
21 offices of president and vice president of the United States shall
22 precede all other offices on a presidential election ballot. The
23 positions on a ballot to be assigned to ballot measures regarding
24 local units of government shall be established by the secretary of
25 state by rule.

26 NEW SECTION. **Sec. 7.** A new section is added to chapter 42.17A
27 RCW to read as follows:

28 The office of the chief privacy officer is a "state office" as
29 that term is used in this chapter.

30 **Sec. 8.** RCW 43.03.010 and 1989 c 10 s 8 are each amended to read
31 as follows:

32 The annual salaries of the following named state elected
33 officials shall be prescribed by the Washington citizens' commission
34 on salaries for elected officials: Governor; lieutenant governor:
35 PROVIDED, That in arriving at the annual salary of the lieutenant
36 governor the commission shall prescribe a fixed amount plus a sum
37 equal to 1/260th of the difference between the annual salary of the

1 lieutenant governor and the annual salary of the governor for each
2 day that the lieutenant governor is called upon to perform the duties
3 of the governor by reason of the absence from the state, removal,
4 resignation, death, or disability of the governor; secretary of
5 state; state treasurer; state auditor; attorney general;
6 superintendent of public instruction; commissioner of public lands;
7 ~~((and))~~ state insurance commissioner; and chief privacy officer.
8 Members of the legislature shall receive for their service per annum
9 the amount prescribed by the Washington citizens' commission on
10 salaries for elected officials; and in addition, reimbursement for
11 mileage for travel to and from legislative sessions as provided in
12 RCW 43.03.060.

13 NEW SECTION. **Sec. 9.** Sections 2 and 3 of this act take effect
14 January 15, 2025.

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