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**HOUSE BILL 2875**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives Smith, Morris, and Magendanz

AN ACT Relating to establishing the office of data privacy, protection, and access equity; adding a new chapter to Title 43 RCW; and providing an expiration date.

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

NEW SECTION. **Sec.**  The legislature finds that the rapid expansion of digital technology and mobile networks is changing how citizens access and share personal data and communications. Data privacy, data security, and access equity are of increasing concern for all residents of the state. State agencies and programs entrusted by citizens with sensitive personal information must serve as responsible custodians of such data. The state can also play an important role in educating local governments and consumers about measures that may help them protect such information and as an advocate for access equity. In an interconnected world, citizens who lack meaningful access to digital technology, including mobile networks and high-speed internet connections, lack the necessary tools for sharing in the state's technology, innovation, and economic development successes. While certain urban areas may benefit from more universal access, recent federal reports document that in many Washington counties, more than seventy percent of residents do not have access to broadband at benchmark speeds. The legislature finds that it is a priority for Washington to identify and remedy any disparity in advanced telecommunications and data access in our state. For the forgoing reasons, the legislature finds that it is necessary and efficient to have a central point of contact for policy matters involving privacy, data protection, and access equity.

NEW SECTION. **Sec.**  (1) The office of data privacy, protection, and access equity is created in the department of enterprise services. The purpose of the office is to serve as a central point of contact for state agencies on policy matters involving data privacy and data protection, and to serve as a forum for ensuring equitable consumer access to communications and data technology.

(2) The governor must appoint the director of the office. The director may employ such staff as are necessary, or contract with another state agency pursuant to chapter 39.34 RCW, for support in carrying out the purposes of this chapter.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced telecommunications capability" means access to both mobile broadband and fixed broadband through a high-speed, high-capacity connection capable of supporting bandwidth-intensive uses by multiple users in a household or business.

(2) "Benchmark speed" means the speed established by the federal communications commission as the benchmark for measuring broadband deployment in its most recent broadband progress report made pursuant to section 706 of the telecommunications act of 1996.

(3) "Office" means the office of data privacy, protection, and access equity.

(4) "Personally identifiable information" means information collected by a state agency about a natural person that is readily identifiable to that specific individual.

NEW SECTION. **Sec.**  The office has the following duties with respect to state agencies:

(1) Conducting an annual privacy review;

(2) Conducting an annual privacy training for state agencies and employees;

(3) Articulating privacy principles and best practices;

(4) Coordinating data protection and security measures, in cooperation with Washington technology solutions and the Washington state office of the chief information officer;

(5) Participating with the Washington state office of the chief information officer in the review of major state agency projects involving personally identifiable information;

(6) Cooperating and consulting with the state auditor in audits of state government and local agencies' data storage and management practices; and

(7) Consulting with and advising the Washington state office of the chief information officer and the office of cybersecurity on the privacy issues relating to risk management and cyber attack threat analysis and liability.

NEW SECTION. **Sec.**  The office must serve as a resource to local governments and the public on data privacy and protection concerns, by:

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

(2) Educating consumers about the use of personally identifying information on mobile and digital networks and measures that can help protect such information.

NEW SECTION. **Sec.**  The office must evaluate the extent to which consumers across the state have functional access to telecommunications capability that permits their full participation in an advanced, data-driven economy.

(1) By December 1, 2016, and every four years thereafter, the office must prepare and submit to the legislature a report evaluating the extent to which telecommunications providers in the state are deploying advanced telecommunications capability at benchmark speeds for download and upload. The report must assess the existence of a digital divide in the state, including but not limited to a discussion of the following:

(a) Any inequality in access experienced by residents of tribal lands and economically distressed communities;

(b) Any urban-rural divide, as indicated by inequality in access experienced by residents of urban versus rural areas; and

(c) The extent to which the federal communications commission's short and long-term goals for connectivity to advanced telecommunications capabilities are being achieved in the state with respect to schools, tribes, and rural areas.

(2) The office is encouraged to include in its report any recommendations about whether the definitions for "benchmark speed" or "advanced telecommunications capability" provided in section 3 of this act should be updated in order to better facilitate evaluation of the existence of a digital divide and inequalities across the state in achieving fundamental access to this communications technology as is necessary to promote economic development in a data-driven economy.

NEW SECTION. **Sec.**  (1) The office must establish performance measures in its 2016 report to the legislature and, in each report thereafter, demonstrate the extent to which performance results have been achieved. These performance measures must include, but are not limited to, the following:

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

(b) A metric to measure the extent of the office's coordination with international and national experts in the fields of data privacy, data protection, and access equity;

(c) A metric to measure implementation of data protection or security measures by state agencies attributable in whole or in part to the office's coordination of efforts;

(d) Metrics to measure the success of consumer education efforts, including but not limited to the number of consumers educated through public outreach efforts, as indicated by how frequently educational documents were accessed, the office's participation in outreach events, and inquiries received back from consumers via telephone or other media;

(e) A metric to demonstrate the extent to which the reports documenting any digital divide in access to advanced telecommunications services have been provided in a timely and meaningful fashion to relevant policymakers; and

(f) A qualitative summary of how documentation of the digital divide may have informed public discussion about the issue.

(2) The office must submit the performance measures and a data collection plan for review and comment to the joint legislative audit and review committee within one year of the effective date of this section.

NEW SECTION. **Sec.**  (1) The joint legislative audit and review committee must conduct a program and fiscal review of the office authorized in this chapter. The review must be completed by June 30, 2025, and findings reported to the legislature and the governor by December 1, 2025. The report must be prepared in the manner set forth in RCW 44.28.071 and 44.28.075.

(2) This section expires July 1, 2026.

NEW SECTION. **Sec.**  Sections 1 through 8 of this act constitute a new chapter in Title 43 RCW.

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