S T A T E O F N E W Y O R K

8156

2009-2010 Regular Sessions

I N A S S E M B L Y

May 6, 2009

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT in relation to creating a temporary state commission on personal privacy to examine and assess the privacy of individuals in the state of New York and to make recommendations relative to the protection thereof; making an appropriation therefor and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. New York historically has been a
2 leader in protecting the personal privacy of its citizens. Today govern-
3 mental agencies and commercial firms are constantly gathering and
4 distributing more and more detailed information on the personal lives of
5 the citizens of New York. The rapid advancement in technology in recent
6 years has created new threats to the privacy of individuals. Computers'
7 ability to collect, collate, and transmit personal data means that
8 isolated pieces of information on an individual can now be put together
9 in profiles of the individual. Privacy questions are also arising from
10 other new technologies as varied as visual monitoring devices, and new
11 kinds of medical and genetic testing. There is no comprehensive federal
12 or state law governing personal privacy, nor is any federal or state
13 agency charged with the overall responsibility of protecting individ-
14 uals' privacy. A thorough understanding of the current dangers to
15 personal privacy is necessary in order that the legislature may take the
16 appropriate steps to protect the privacy of the state's citizens at this
17 pivotal point in time.
18 S 2. Privacy commission. a. A temporary state commission is hereby
19 created to be known as "the commission on personal privacy". The commis-
20 sion shall consist of eight members to be appointed as follows: two
21 members shall be appointed by the governor; two members shall be
22 appointed by the temporary president of the senate; one member shall be

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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appointed by the minority leader of the senate; two members shall be appointed by the speaker of the assembly; and one member shall be appointed by the minority leader of the assembly. Vacancies in the membership of the commission and among its officers shall be filled in the manner provided for original appointments. The commission shall select from its membership a chairperson and a vice-chairperson.

b. No member, officer or employee of the commission shall be disqualified from holding any other public office or employment, nor shall he or she forfeit any such office or employment by reason of his or her appointment hereunder, notwithstanding the provisions of any general, special or local law, charter, code, ordinance, regulation or rule.

S 3. The commission may employ and at pleasure remove such personnel as it may deem necessary for the performance of its functions and fix their compensation within the amounts made available therefor.

S 4. The commission may meet within and without the state, shall hold public hearings, and shall have all the powers of a legislative committee pursuant to the legislative law.

S 5. The members of the commission shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties hereunder.

S 6. To the maximum extent feasible, the commission shall be entitled to request and receive and shall utilize and be provided with such facilities, resources, and data of any court, department, division, board, bureau, commission, or agency of the state or any political subdivision thereof as it may reasonably request to carry out properly its powers and duties hereunder.

S 7. The commission shall undertake a comprehensive study of the condition of personal privacy in the state, and how best to protect it. The study shall include, but not be limited to, the following matters: factual information on the current and foreseeable state of privacy intrusions, and the collection and distribution of personal information; the personal data practices of governmental agencies and commercial enterprises; the level of citizen concern about personal privacy; the scope and effectiveness of federal and state privacy protection laws; the advisability of generally applicable privacy principles; the roles of the federal and state governments, as well as industry self-regulation, in protecting privacy; and legislative proposals to protect privacy.

S 8. The commission shall make a report to the governor and the legislature of its findings, conclusions, and recommendations no later than January 1, 2011, and shall submit with its report such legislative proposals as it deems necessary to implement its recommendations.

S 9. The sum of one hundred fifty thousand dollars ($150,000), or so much thereof as may be necessary, is hereby appropriated to pay the expenses including personal service, in carrying out the provisions of this act. Such moneys shall be payable out of the state treasury from the general fund to the credit of the state purposes account after audit by and on the warrant of the comptroller upon vouchers certified or approved by the chairperson or vice-chairperson of the temporary state commission on personal privacy in the manner prescribed by law.

S 10. This act shall take effect August 1, 2009 and shall expire March 31, 2011, when upon such date the provisions of this act shall be deemed repealed.