STATE OF NEW YORK

9104

IN SENATE

April 26, 2024

Introduced by Sen. GONZALEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Internet and Technology

AN ACT to amend the state technology law, in relation to establishing the position of chief artificial intelligence officer and the functions, powers and duties therefor

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 101 of the state technology law is amended by adding two new subdivisions 6 and 7 to read as follows:

6. "Artificial intelligence" or "AI" shall mean: (a) a machine-based system that operates with varying levels of autonomy and that may exhibit adaptiveness after deployment and that, for explicit or implicit objectives, infers, from the input the system receives, how to generate outputs such as predictions, content, recommendations, or decisions that may influence physical or virtual environments. This includes, but is not limited to, systems, applications, software, or devices designed to:

(i) Sense, interpret, process, analyze, or otherwise comprehend data, text, speech, voice, images, video, sensor inputs, or other forms of information from physical and virtual environments.

(ii) Abstract concepts, detect patterns, extract features, develop explanatory and predictive data models, or otherwise derive higher-order insights through analysis of data and information.

(iii) Apply reasoning, decision logic, knowledge representation, prediction models, data model inferences, or other structured and unstructured techniques and capabilities to generate options, recommendations, forecasts, determinations, conclusions, actions, or other outputs that influence physical or virtual environments, systems, applications, devices, or decision-making.

(iv) Operate autonomously once deployed, regardless of whether designed to allow human monitoring, oversight, intervention, or override.

(b) This definition shall not include any software used primarily for basic computerized processes, such as calculators, spell check tools, autocorrect functions, spreadsheets, electronic communications, or any tool that relates only to internal management affairs such as ordering office supplies or processing payments, and that do not materially affect the rights, liberties, safety or welfare of any human.

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

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7. "Automated decision-making system" shall mean any software that uses algorithms, computational models, or artificial intelligence, or a combination thereof, to automate, support, or replace human decision-making and shall include, without limitation, systems that process data, and apply predefined rules or machine learning algorithms to analyze such data, and generate conclusions, recommendations, outcomes, assumptions, projections, or predictions. "Automated decision-making system" shall not include any software used primarily for basic computerized processes, such as calculators, spell check tools, autocorrect functions, spreadsheets, electronic communications, or any tool that relates only to internal management affairs such as ordering office supplies or processing payments, and that do not materially affect the rights, liberties, safety or welfare of any human.

§ 2. The state technology law is amended by adding a new section 102-a to read as follows:

§ 102-a. Chief artificial intelligence officer; functions, powers and duties. 1. There is hereby established the office of artificial intelligence within the office. The head of such office shall be the chief artificial intelligence officer and shall be appointed by the governor with the advice and consent of the senate. The chief artificial intelligence officer shall be in sole charge of the administration of the office, and shall report to the executive department. The chief artificial intelligence officer shall be designated as management confidential in the noncompetitive class in accordance with the civil service law. The chief artificial intelligence officer shall have expertise in artificial intelligence, data privacy, and the technology industry.

2. The office of artificial intelligence shall have the following functions, powers and duties:

(a) Develop statewide artificial intelligence policies and governance, including but not limited to:

(i) Developing and updating state policy and guidelines on the use, procurement, development, and deployment of artificial intelligence and automated decision-making systems in a manner consistent with state laws;

(ii) Developing and updating a handbook regarding the use, study, development, evaluation, and procurement of systems that use artificial intelligence, in a manner consistent with state and federal laws, and national and international standards for use by the state's departments, boards, commissions, agencies and authorities;

(iii) Developing a risk management plan, including procedures for assessing and classifying risk levels, including, but not limited to, pertaining to the operations of the state, data security and privacy, and the rights, liberties, safety and welfare of any human for use of artificial intelligence and automated decision-making systems by the state's departments, boards, commissions, agencies and authorities; and

(iv) Setting governance standards for human oversight of artificial intelligence and automated systems, and determining resource requirements for responsible adoption, including, but not limited to developing and deploying employee training programs for safe and responsible use of artificial intelligence; and

(v) Ensuring public access requirements are established for the publication of information related to each state agency use of automated decision-making systems and artificial intelligence;

(b) Coordinate the activities of any and all state departments, boards, commissions, agencies and authorities performing any functions using artificial intelligence tools;

(c) Coordinate and track state department, board, commission, agency and authority procurement and planning in state programs;

(d) Investigate and assess what resources, monetary or otherwise, if any, a department, board, commission, authority or agency requires to adapt to the changes that artificial intelligence will bring to the regulatory landscape and to adequately adopt and oversee the use of artificial intelligence across its operations;

(e) Provide guidance to governmental entities in developing, designing and deploying standards, mission, regulations, investments, practices, systems pertaining to the use of artificial intelligence tools and automated decision-making systems, in a manner that protects the rights and safety of individuals, including but not limited to employee training, protecting privacy and data security, safeguarding against discrimination based on race, gender, ethnicity, religion, disability, sexual orientation, or socioeconomic status, mitigating risks of misinformation and manipulation, and impact on the human workforce;

(f) Recommend the replacement, disconnection or deactivation of any application that utilizes artificial intelligence or any automated decision-making system and that demonstrates that deployment and use is inconsistent with provisions of law or is otherwise harmful to the operations of the state, data security and privacy, or the rights, liberties, safety, and welfare of any human;

(g) Study the implications of the usage of artificial intelligence for data collection to inform testing and evaluation, verification and validation of artificial intelligence to ensure that artificial intelligence will perform as intended, including when interacting with humans and other systems, develop common metrics to assess trustworthiness that artificial intelligence systems will perform as intended, and minimize performance problems and unanticipated outcomes, protect against risks to data security and privacy, and address the possibility of intentional misuse of an artificial intelligence system;

(h) Submit a report annually to the temporary president of the senate and the speaker of the assembly on progress, findings, studies and recommendations regarding the use of artificial intelligence and automated decision-making systems in the various government agencies. Such report shall also be made publicly available on the office of information technology website. Where the chief artificial intelligence officer makes a determination that such disclosure would result in a substantial negative impact on health or safety of the public, infringe upon the privacy rights of individuals, or significantly impair the state's ability to protect its information technology or operational assets, the officer may redact such information, provided an explanatory statement by which such determination was made is published along with the redacted report. The provisions of this subdivision shall not be deemed to require or authorize the disclosure of confidential information or trade secrets; and

(i) Investigate and conduct periodic audits of any department's, board's, commission's, agency's or authority's use of artificial intelligence tools or automated decision-making systems to ensure:

(i) departments, boards, commissions, agencies and authorities develop, acquire and use such tools or systems that comply with the constitution, state and federal laws;

(ii) ensure that any benefit a department, board, commission, agency or authority receives by using such tools or systems outweighs any risk in using that automated system;

(iii) ensure that each such tool or system is secure, protected and resistant to circumstances in which that automated system faces any systematic vulnerability, manipulation or malicious exploitation; and

(iv) nothing in this section shall be construed as restricting the artificial intelligence officer's or any state department's, board's, commission's, authority's or agency's access to:

(1) conduct any internal investigation aimed at developing, improving or repairing any product, service or technology,

(2) prevent, detect, protect, respond, investigate, report to any person responsible for any security incident, identity theft, fraud, harassment, malicious or misleading activity or illegal activity, or

(3) preserve the integrity or security of any system.

3. To effectuate the purposes of this section, the chief artificial intelligence officer may request and receive from any department, division, board, bureau, commission or other agency of the state or any political subdivision thereof or any public authority, staff and other assistance, information, and resources as will enable the office of artificial intelligence to properly carry out its functions, powers and duties.

§ 3. The state technology law is amended by adding a new section 104-a to read as follows:

§ 104-a. Advisory committee for state artificial intelligence policy. 1. There is hereby created in the division of broadband access an advisory committee for state artificial intelligence policy. The chief artificial intelligence officer shall serve as chair of the committee. The committee shall be composed of a minimum of seven representatives or their equivalent selected from state agencies and appointed by the governor, provided that no more than one member shall be appointed from a single agency, and provided further that the director shall serve as an ex-officio member of the committee. In addition, one member shall be appointed by the speaker of the assembly, one by the temporary president of the senate, and two members to be appointed by the governor at the recommendation of the two largest organizations in the state representing municipal leadership.

2. All members of the advisory committee shall serve at the pleasure of their appointing authority. The members of the committee shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

3. No member of the advisory committee shall be disqualified from holding any other public office, nor forfeit any such office by reason of appointment hereunder, notwithstanding the provisions of any general, special or local law, ordinance or city charter, provided however that members appointed by the governor, speaker of the assembly, or temporary president of the senate shall be considered state officers and subject to the provisions of paragraph (a) of subdivision eight of section seventy-three of the public officers law.

4. The advisory committee shall, at minimum, meet twice in each calendar year, provided that additional meetings of the advisory committee may be called by the chairperson at any time.

5. The advisory committee shall:

(a) Advise the chief artificial intelligence officer on best practices for the use of artificial intelligence and automated decision-making systems in agencies;

(b) Advise the chief artificial intelligence officer on state policy for artificial intelligence and automated decision-making systems;

(c) Advise the chief artificial intelligence officer on the current state of the state in relation to competitiveness in artificial intelligence, including the scope and scale of New York's investments in artificial intelligence research and development;

(d) Advise the chief artificial intelligence officer on improving the workforce, including use in training, education and worker assistance in relation to the use of artificial intelligence;

(e) Advise the chief artificial intelligence officer on leveraging local resources to optimize and improve operations in various areas of government operations, including but not limited to medical services, cyber security, infrastructure, and recovery from natural disasters;

(f) Advise the chief artificial intelligence officer on opportunities for local, regional, interstate, federal, and international cooperation in artificial intelligence research activities, standards development and regulations;

(g) Advise the chief artificial intelligence officer on strategies to prevent and mitigate artificial intelligence-assisted misinformation campaigns and the potentially harmful effects of artificial intelligence;

(h) Advise the chief artificial intelligence officer on how the state can leverage the substantial and growing expertise of the emerging technologies, such as artificial intelligence, in the long-term development of public policies that affect the privacy, rights, and the use of artificial intelligence online;

(i) Advise the chief artificial intelligence officer on strategies for the development of inter-governmental cooperation among agencies of the federal, state, and local governments and cooperation; and

(j) Make periodic recommendations to the legislature on legislative or regulatory changes.

§ 4. Subdivisions 2 and 3 of section 102 of the state technology law, as added by chapter 430 of the laws of 1997 and as renumbered by chapter 437 of the laws of 2004, are amended to read as follows:

2. The head of the office shall be the director of the office, who shall serve as the chief technology officer for the state of New York and shall be designated as management confidential in the noncompetitive class in accordance with the civil service law. The director shall be the chief executive officer of and in sole charge of the administration of the office, with exception to the office established pursuant to section one hundred two-a of this article and the committee established pursuant to section one hundred four-a of this article. The director shall be entitled to receive reimbursement for expenses actually and necessarily incurred by [~~him or her~~] such director in the performance of [~~his or her~~] such director's duties.

3. The director may, from time to time, create, abolish, transfer and consolidate bureaus and other units within the office not expressly established by law as [~~he or she~~] such director may determine necessary for the efficient operation of the office, subject to the approval of the director of the budget, with exception to the office established pursuant to section one hundred two-a of this article and the committee established pursuant to section one hundred four-a of this article.

§ 5. This act shall take effect on the ninetieth day after it shall have become a law.