

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:

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

3 6. "Artificial intelligence" or "AI" shall mean: (a) a machine-based
4 system that operates with varying levels of autonomy and that may exhib-
5 it adaptiveness after deployment and that, for explicit or implicit
6 objectives, infers, from the input the system receives, how to generate
7 outputs such as predictions, content, recommendations, or decisions that
8 may influence physical or virtual environments. This includes, but is
9 not limited to, systems, applications, software, or devices designed to:
10 (i) Sense, interpret, process, analyze, or otherwise comprehend data,
11 text, speech, voice, images, video, sensor inputs, or other forms of
12 information from physical and virtual environments.

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

16 (iii) Apply reasoning, decision logic, knowledge representation,
17 prediction models, data model inferences, or other structured and
18 unstructured techniques and capabilities to generate options, recommen-
19 dations, forecasts, determinations, conclusions, actions, or other
20 outputs that influence physical or virtual environments, systems, appli-
21 cations, devices, or decision-making.

22 (iv) Operate autonomously once deployed, regardless of whether
23 designed to allow human monitoring, oversight, intervention, or over-
24 ride.

25 (b) This definition shall not include any software used primarily for
26 basic computerized processes, such as calculators, spell check tools,
27 autocorrect functions, spreadsheets, electronic communications, or any
28 tool that relates only to internal management affairs such as ordering
29 office supplies or processing payments, and that do not materially
30 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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1 7. "Automated decision-making system" shall mean any software that
2 uses algorithms, computational models, or artificial intelligence, or a
3 combination thereof, to automate, support, or replace human decision-
4 making and shall include, without limitation, systems that process data,
5 and apply predefined rules or machine learning algorithms to analyze
6 such data, and generate conclusions, recommendations, outcomes, assump-
7 tions, projections, or predictions. "Automated decision-making system"
8 shall not include any software used primarily for basic computerized
9 processes, such as calculators, spell check tools, autocorrect func-
10 tions, spreadsheets, electronic communications, or any tool that relates
11 only to internal management affairs such as ordering office supplies or
12 processing payments, and that do not materially affect the rights,
13 liberties, safety or welfare of any human.

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

16 § 102-a. Chief artificial intelligence officer; functions, powers and
17 duties. 1. There is hereby established the office of artificial intelli-
18 gence within the office. The head of such office shall be the chief
19 artificial intelligence officer and shall be appointed by the governor
20 with the advice and consent of the senate. The chief artificial intelli-
21 gence officer shall be in sole charge of the administration of the
22 office, and shall report to the executive department. The chief artifi-
23 cial intelligence officer shall be designated as management confidential
24 in the noncompetitive class in accordance with the civil service law.
25 The chief artificial intelligence officer shall have expertise in arti-
26 ficial intelligence, data privacy, and the technology industry.

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

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

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

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

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

46 (iv) Setting governance standards for human oversight of artificial
47 intelligence and automated systems, and determining resource require-
48 ments for responsible adoption, including, but not limited to developing
49 and deploying employee training programs for safe and responsible use of
50 artificial intelligence; and

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

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

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

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

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

17 (f) Recommend the replacement, disconnection or deactivation of any
18 application that utilizes artificial intelligence or any automated deci-
19 sion-making system and that demonstrates that deployment and use is
20 inconsistent with provisions of law or is otherwise harmful to the oper-
21 ations of the state, data security and privacy, or the rights, liber-
22 ties, safety, and welfare of any human;

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

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

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

50 (i) departments, boards, commissions, agencies and authorities devel-
51 op, acquire and use such tools or systems that comply with the constitu-
52 tion, state and federal laws;

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

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

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

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

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

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

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

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

22 § 104-a. Advisory committee for state artificial intelligence policy.

23 1. There is hereby created in the division of broadband access an advi-
24 sory committee for state artificial intelligence policy. The chief arti-
25 ficial intelligence officer shall serve as chair of the committee. The
26 committee shall be composed of a minimum of seven representatives or
27 their equivalent selected from state agencies and appointed by the
28 governor, provided that no more than one member shall be appointed from
29 a single agency, and provided further that the director shall serve as
30 an ex-officio member of the committee. In addition, one member shall be
31 appointed by the speaker of the assembly, one by the temporary president
32 of the senate, and two members to be appointed by the governor at the
33 recommendation of the two largest organizations in the state represent-
34 ing municipal leadership.

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

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

48 4. The advisory committee shall, at minimum, meet twice in each calen-
49 dar year, provided that additional meetings of the advisory committee
50 may be called by the chairperson at any time.

51 5. The advisory committee shall:

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

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

1 (c) Advise the chief artificial intelligence officer on the current
2 state of the state in relation to competitiveness in artificial intelli-
3 gence, including the scope and scale of New York's investments in arti-
4 ficial intelligence research and development;

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

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

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

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

20 (h) Advise the chief artificial intelligence officer on how the state
21 can leverage the substantial and growing expertise of the emerging tech-
22 nologies, such as artificial intelligence, in the long-term development
23 of public policies that affect the privacy, rights, and the use of arti-
24 ficial intelligence online;

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

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

30 § 4. Subdivisions 2 and 3 of section 102 of the state technology law,
31 as added by chapter 430 of the laws of 1997 and as renumbered by chapter
32 437 of the laws of 2004, are amended to read as follows:

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

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

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