



Added by the Member
for Mount Scio (by leave)

2020-06-17

Baines.

HOUSE OF ASSEMBLY
Newfoundland and Labrador

Sarah Stoodley, MHA
Mount Scio

March 12, 2020

Dear Privacy Commissioner of Canada,

Thank you for seeking input on expanding PIPEDA to include protection for privacy rights, specifically as it relates to artificial intelligence systems. Protecting the privacy of Canadians is of utmost importance, as is clarifying legislation and regulation so that growing technology and technology-enabled companies across Canada can plan necessary changes to their systems and processes to ensure compliance.

On March 3, 2020 I introduced a Private Members' Resolution in the House of Assembly in Newfoundland and Labrador which was debated and passed unanimously on March 4, 2020.

The motion was as follows:

WHEREAS the Office of the Privacy Commissioner of Canada believes that the *Personal Information Protection And Electronic Documents Act* (PIPEDA) falls short of protecting Canadians from privacy risks posed by advancements in artificial intelligence systems;

WHEREAS an artificial intelligence system is defined as a machine-based system that can, for any given set of human-defined objectives, make predictions, recommendations or decisions influencing real or virtual environments. AI systems are designed to operate with varying levels of autonomy;

WHEREAS Newfoundland and Labrador residents are protected in the public sector through the provincial *Access To Information And Protection Of Privacy Act* (ATIPP) and in the private sector by the federal PIPEDA;

WHEREAS provinces including British Columbia and Alberta have their own privacy legislation (*Personal Information Protection Act*) in lieu of PIPEDA, that safeguards privacy and protection of personal information held by private companies and organizations;

WHEREAS other countries such as the UK have comprehensive legislation that protects residents' privacy and personal information from advances in artificial intelligence systems in both private and public sector organizations; and



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WHEREAS within the current regulatory framework, advances in artificial intelligence systems may result in inadequate privacy protections;

THEREFORE BE IT RESOLVED that this honorable House supports the Office of the Privacy Commissioner of Canada in expanding PIPEDA to include artificial intelligence systems;

AND urges the Government of Newfoundland and Labrador to investigate expanding provincial privacy legislation to include protections for the use of individuals' personal information by public and private sector organizations as it relates to artificial intelligence systems.

As PIPEDA is a federal act, members of the House of Assembly of Newfoundland and Labrador eagerly await the recommendations from your office and the subsequent proposed legislative changes to protect Canadians. Following this review, we will review and consider if provincial legislative changes should be considered to further protect Newfoundlanders and Labradorians' personal information in consideration of current and future technological advancements.

Debate highlights and subsequent recommendations to the Office of the Privacy Commissioner of Canada include:

1. Overall Principles

- a. Include the imperative for periodic legislative review, no longer than five years.
- b. Recommend smaller legislative change sooner, rather than waiting longer for extensive changes.
- c. Consider higher standards or greater protection requirements for sensitive, personal health information such as biometric information and data relating to facial scans.
- d. Consider recommending that the Privacy Commissioner of Canada have the power to levy fines for non-compliance.

2. Disclosure

- a. Ensure that disclosure to consumers is in plain language, up-front and difficult to miss.
- b. Ensure that disclosure to consumers clearly communications to how personal information will be collected, stored and shared.
 - Eg. As is currently in force in Illinois, the Artificial Intelligence Video Interview Act ensures that companies who film interviews, disclose to interviewees that footage may be processed by an artificial intelligence system. There are also restrictions as to how long the video footage may be stored and how it can be used.



HOUSE OF ASSEMBLY
Newfoundland and Labrador

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- c. Ensure that disclosure is not hidden in legal terms and conditions.
 - Eg. Consider requiring explicit consent to be clearly within online customer experiences, as is currently required when collecting CASL consent.
- d. Ensure that individuals can request that their personal information no longer be stored and be no longer used by algorithms to make decisions or for testing/quality assurance.

3. Algorithms

- a. Consider whether decisions made by algorithms, using personal and sensitive information, should be confidentially disclosed to an independent body, such as is being considered in the United States and France.
- b. Consider implications of algorithmic bias on decision making and program design as a result of artificial intelligence systems, and if protection from bias is relevant to be included in any proposed expansions to PIPEDA.

4. Administrative Protections

- a. Ensure that sufficient security, protection policies and procedures are in place for public and private organizations that store and use personal information.

Thank you for the opportunity to contribute to the consultation, and I would be happy to participate in any further discussions or consultations on any proposed expansions of PIPEDA.

Sincerely,

A handwritten signature in cursive script that reads "Sarah Stoodley".

Sarah Stoodley, MHA Mount Scio

CC:

Minister of Justice and Public Safety, Government of Newfoundland Labrador
Minister Responsible for the Office of the Chief Information Officer, Newfoundland Labrador
Minister of Innovation, Science and Economic Development Canada, Government of Canada
Minister of Natural Resources, Government of Canada
MP Jack Harris