

HB 91-FN-A - AS AMENDED BY THE HOUSE

14Feb2023... 0142h

2023 SESSION

23-0057

07/05

HOUSE BILL

91-FN-A

AN ACT relative to privacy obligations of the department of health and human services.

SPONSORS: Rep. Edwards, Rock. 31; Rep. M. Pearson, Rock. 34; Rep. McMahon, Rock. 17;
Rep. Ammon, Hills. 42; Rep. T. Lekas, Hills. 38; Rep. Ulery, Hills. 13; Rep.
Moffett, Merr. 4; Sen. Rosenwald, Dist 13

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill establishes a data privacy and information technology security governance board within the department of health and human services to oversee data privacy risk calculation and risk mitigation efforts. The bill also makes an appropriation to the department for 2 classified employees to accomplish these objectives.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to privacy obligations of the department of health and human services.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Declaration of Purpose. New Hampshire voters passed the Right of Privacy into the state
2 constitution in November 2018 with an 81 percent approval. With that vote, state government
3 culture and behavior needed to be shaped by the words, "An individual's right to live free from
4 governmental intrusion in private or personal information is natural, essential, and inherent". The
5 department of health and human services has been subject to the Health Insurance Portability and
6 Accountability Act since 1996 which drove initial efforts to develop a culture and infrastructure to
7 protect personal data privacy. As a holder of personal information in state government, the
8 department has a responsibility to demonstrate to the public the state's commitment to actively and
9 overtly respect personal privacy, including privacy of personal information. Establishing and
10 maturing a culture of privacy is core to successfully driving future efforts to implement and enhance
11 privacy policies, procedures, and practices. Continuous improvement requires appropriate
12 governance and policy leadership.

13 2 New Subdivision; Data Privacy and Information Technology Security Governance Board.
14 Amend RSA 126-A by inserting after section 98 the following new subdivision:

15 Data Privacy and Information Technology Security Governance Board

16 126-A:99 Data Privacy and Information Technology Security Governance Board Established.
17 There is hereby established a data privacy and information technology security governance board to
18 oversee the department's use of data, data privacy, and information technology security that shall be
19 maintained by the department of health and human services.

20 126-A:100 Membership; Quorum.

21 I. The data privacy and information technology security governance board shall consist of
22 the following members:

23 (a) The commissioner of the department of health and human services, who shall serve
24 as the governance board chair.

25 (b) The department's privacy officer.

26 (c) Three directors of the department who have responsibility for one of the following
27 areas: medicaid services, public health, behavioral health, children, youth and families, or long-term
28 support and services.

29 (d) The director of the department's bureau of human resource management.

30 (e) The director of the department's bureau of information services.

31 (f) The department's chief legal officer.

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(g) The commissioner of the department of information technology.

(h) Up to 2 additional voting members appointed by the commissioner of the department of health and human services, if needed.

II. A quorum of this board shall consist of the named positions being in attendance with greater than 50 percent present. Members may delegate authority to represent them for the purposes of maintaining a quorum. The chair of the board may also delegate authority to another appropriate member of the governance board to serve during a specified meeting.

126-A:101 Duties.

I. The data privacy and information technology security governance board shall:

(a) Meet at least 3 times a year and post public facing meeting minutes within 2 weeks of the completion of each meeting on the department's web page.

(b) Become educated in what data governance means, how it will work for the organization, and what it means to embrace data governance and activate enterprise data stewards.

(c) Actively promote improved data governance practices across the department.

(d) Identify and approve of pivotal data governance roles and responsibilities for the department including cross-enterprise domain stewards and coordinators.

(e) Advise, review, and approve the department's data control, governance, and privacy practices in compliance with federal and state law and federal and state information privacy and security policies, with the goal to meet or exceed private market benchmarks for governance, risk management, and compliance.

(f) Drive strategic and timely implementation of a department-wide privacy policy, related procedures and processes to operationalize policy-derived controls, and effective risk management methodologies, including industry standards such as privacy impact assessments and privacy by design.

II. The data privacy and information technology security governance board may solicit information from any person or entity the board deems relevant to its quest.

126-A:102 Risk Management.

I. The department shall conduct a written risk assessment and mitigation remediation plan in the form of a privacy impact assessment (PIA).

II. The assessment and plan shall:

(a) Assess risks to an individual's right to privacy within the department's information technology systems where the individual does not possess immediate control over their information.

(b) Recommend alternatives to both mitigate the risks and achieve the stated objectives of the department's systems.

(c) Identify those individuals and offices within the department who shall be directly accountable for the assessment and plan, the system at the time the assessment and plan are compiled, and any approved alternatives and mitigations as a result of the assessment and plan.

1 III. Unless otherwise required by law or applicable regulation, no personal information shall
2 be collected prior to the completion of the assessment and plan and any subsequent measures as a
3 result of the assessment and plan, as determined by the governance board for any systems
4 implemented subsequent to March 31, 2024.

5 IV. The assessment and plan shall be approved and may be acted upon by the commissioner.
6 All assessments and plans conducted before the date of the next data privacy and information
7 technology security governance board meeting shall be submitted to the board for review.

8 3 Data Privacy and Information Technology Security Governance Board; Specialized Employees
9 Authorized; Appropriation.

10 I. The department is hereby authorized to establish 2 full-time, permanent employees to
11 support and conduct the required data privacy and information technology security assessments, as
12 well as manage the implementation of mitigation efforts and other necessary updates.

13 II. The qualifications of the 2 employees shall include privacy certifications, information
14 systems expertise, and project management and communications experience. Certifications may be
15 deferred for up to 2 years post-hiring.

16 III. The 2 employees shall be classified, full time employees who shall work on assisting in
17 implementing the objectives of the data privacy and information technology security governance
18 board, conducting the privacy assessment and mitigation plan, and other, related data privacy and
19 information technology security activities in the department of health and human services. The
20 classification shall be information technology manager IV, labor grade 32, step 7.

21 IV. The sum of \$300,000 for the fiscal year ending June 30, 2024 is hereby appropriated to
22 the department of health and human services for the purpose of funding 2 information technology
23 manager IV positions as required in paragraph III of this section. The governor is authorized to
24 draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

25 V. The department is authorized to use contract support available from funds prior to July
26 1, 2024.

27 4 Effective Date.

28 I. Section 3 of this act shall take effect July 1, 2023.

29 II. The remainder of this act shall take effect 60 days after its passage.

HB 91-FN-A- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2023-0142h)

AN ACT relative to privacy obligations of the department of health and human services.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Appropriation	\$0	\$300,000	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	\$163,000 general funds; \$107,000 federal funds	\$164,000 general funds; \$108,000 federal funds	\$172,000 general funds; \$114,000 federal funds
Funding Source:	<input checked="" type="checkbox"/> General Federal funds <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other -			

METHODOLOGY:

This bill establishes a Data Privacy and Information Technology Governance Board within the Department of Health and Human Services to oversee data privacy risk calculation and risk mitigation efforts. The bill establishes two full-time classified positions (Information Technology Manager IV, Labor Grade 32, step 7) for the purposes of implementing mitigation efforts and other necessary updates. Combined, salary and benefits for the two positions will cost \$270,000 (\$163,000 general funds / \$107,000 federal funds) in FY24, \$272,000 (\$164,000 general funds / \$108,000 federal funds) in FY25, and \$286,000 (\$172,000 general funds, \$114,000 federal funds) in FY26. The bill contains a general fund appropriation of \$300,000 in FY24.

AGENCIES CONTACTED:

Departments of Health and Human Services and Information Technology