



Information and Privacy
Commissioner of Ontario

Commissaire à l'information et à la
protection de la vie privée de l'Ontario

Standing Committee on Justice Policy of the Legislative Assembly Re Bill 194, the *Strengthening Cyber Security and Building Trust in the Public Sector Act, 2024*

**Speaking remarks delivered by Patricia Kosseim,
Information and Privacy Commissioner**

[Check against delivery]

Introduction

- Good morning.
- Thank you for the opportunity to present my views on Bill 194.
- Joining me today are Dr. Christopher Parsons, Director of Technology Policy, and Brendan Gray, Legal Counsel.
- I appreciated hearing the Minister's views, and commend him for his bold leadership on these critical issues of the day.
- Indeed, Ontario has set an ambitious goal to secure the public's confidence that their personal



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information will be protected in a world of digital information and AI.

- Bill 194 charts a path towards that laudable goal. But to truly succeed, it needs a few critical amendments.

First, for Ontarians to trust government's use of emerging technologies, there must be independent oversight to ensure these technologies are used responsibly and risks of harm are effectively mitigated.

- The bill currently gives the Minister ultimate regulation-making authority over significant aspects of AI governance.
- But to be credible in the eyes of Ontarians, public institutions must be held accountable to an independent oversight body.
- In their 2024 statement, the G7 Data Protection and Privacy Authorities underscore the critical role of

privacy commissioners in AI governance, given the significant privacy and ethical implications at play.

- Here in Canada, Quebec's Law 25, the federal Bill C-27, Alberta's new Bill 33, and even Ontario's own white paper of 2021 all envisage explicit obligations to protect personal information collected and used as part of automated decision-making, overseen by an independent privacy commissioner.
- Schedule 1 of Bill 194 must be amended to include an independent oversight role for my office as it relates to the significant privacy implications of AI.

Second, AI Principles and Prohibitions Must Be Embedded in Statute

- For Ontarians to trust that AI technologies are being used ethically and responsibly, effective guardrails must be firmly codified in statute.
- This position is echoed by experts, including the Ontario Human Rights Commission, the Law Commission of Ontario, the Ontario Bar Association, and Professor Teresa Scassa of the University of Ottawa.

- Such guardrails would ensure that AI is only used in ways that are valid and reliable, safe, privacy-protective, transparent, accountable, and human rights-affirming. This is in keeping with the government's own draft Trustworthy AI framework.
- Similarly, given the real risks and potential harms of AI, Bill 194 should also codify in statute clear prohibitions that we can all agree as a society should be no-go zones.

Third, there must be an alignment of legal and regulatory requirements for children's digital information

- Schedule 1 of Bill 194 allows for regulations to be made regarding the collection, use and disclosure of digital information of children by school boards and children's aid societies.
- Yet, there is no link between the bill and my office's existing powers to issue orders, decisions, and guidance on the exact same subjects.

- Without amendment, the bill may inadvertently create an inconsistent and incoherent privacy regulatory regime, where institutions providing services to children must comply with conflicting sets of legal requirements.
- Our focus should be on protecting kids, not burdening organizations with regulatory confusion and red tape. Bill 194 could be easily amended to fix this oversight.

Fourth: Children's Information should be deemed sensitive

- The government has clearly signaled a strong commitment to protect our most vulnerable.
- To follow through on this commitment, Bill 194 should be amended to deem children's personal data as sensitive.
- This change would require institutions to apply a higher level of protection, commensurate with the sensitivity of children's data. This special lens would apply for example, when assessing and mitigating

privacy risks and implementing security safeguards for children.

Fifth, individuals must be able to complain and seek redress when something goes wrong.

- As drafted, only individuals notified of a privacy breach under FIPPA will have the right to file a complaint with my office.
- If they discover a breach through other means — or if they're concerned about over collection, use, sharing, retention, accuracy or safeguarding of their data — they won't be able to file a complaint.
- Rather than advance privacy rights, Bill 194 risks setting Ontarians back and leaving them with fewer privacy rights than other Canadians.
- A critical change I recommend is to expand the grounds for individuals to bring forward legitimate complaints for independent investigation. Just

having this option available will help reassure Ontarians and preserve their trust in government.

Sixth: Data Minimization principles must be built in

- To secure Ontarians' trust in government, Bill 194 should specify that public institutions cannot collect, use, or disclose more personal information than they need for legitimate and specified purposes.
- This "data minimization" principle is foundational to modern privacy laws, including Ontario's own existing privacy laws in the health and children's services sectors. Bill 194 should be brought up to par so that *all* public institutions are held to the same basic standard.
- Data minimization not only protects Ontarians; it also helps protect institutions from the financial and reputational impacts of privacy breaches. By collecting and retaining less personal information in the first place, less can be lost or compromised.

Conclusion

- Ontario has a unique opportunity to lead on the key digital issues of the day.
- Bill 194 is a good start, but to truly succeed, it needs these few critical improvements to adequately protect Ontarians and secure their trust in government.
- Specifically, I urge the committee to zero in on these key recommendations in my written submission:
 - Artificial intelligence: #1, 2, 10 and 12
 - Children's privacy: #13
 - FIPPA: # 15, 18, 22 & 23
- Bill 194 as amended could lay the necessary foundation for privacy protection **and** responsible innovation in the digital age.
- Let's not miss this opportunity to solidify Ontario's leadership as we move into the digital future.