

# FOIPPA overview

PSCIOC

February 16, 2022



Ministry of  
Citizens' Services

# Agenda

- Background
- Status update
- Amendment walkthrough
- Resources



# Background



# FOIPPA overview

*Freedom of Information and Protection of Privacy Act* (FOIPPA) has 2 main purposes:



## **Freedom of Information (FOI)**

Make public bodies more open and accountable by providing the public with a legislated right of access to records held by a public body, including their own personal information, subject to reasonable exceptions.



## **Protection of Privacy**

Specify circumstances where public bodies are authorized to collect, use, and disclose personal information; and require public bodies to make reasonable efforts to ensure the accuracy and security of personal information.

## **Public Bodies Covered by FOIPPA**

Includes government ministries, agencies, boards commissions, Crown corporations, and “local public bodies” (which include municipalities, universities and colleges, school boards, health authorities, and self-governing bodies of professions).

2,900+



## **Establishes an Independent Officer of the Legislature**

Information and Privacy Commissioner has a mandate to monitor how the Act is administered to ensure that its purposes are achieved.

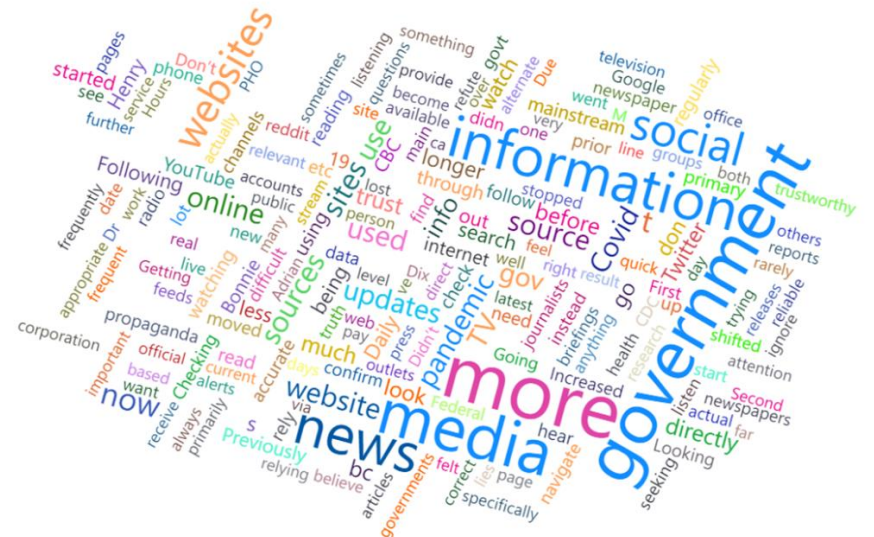
## **FOIPPA Special Committee**

At least once every 6 years, a Special Committee of the Legislative Assembly must be appointed to conduct a comprehensive review of the Act and submit a report to the Legislative Assembly within one year of the date of its appointment.



# Amendment background

- Besides some minor changes in 2019, FOIPPA had not been substantially updated since 2011
- Substantial stakeholder engagement undertaken in 2018/19 and 2021 to inform changes.



# Status update

## *Current status*

- FOI/PPA Amendment Act received royal assent Nov. 25
- Regulations passed
  - Personal Information Disclosure For Storage Outside Of Canada
  - Application Fee

## *Upcoming activities*

- Continued development of support materials and ministerial directives
- Regulations to bring Privacy Management Program, and Privacy Breach Notification requirements into force

# Key amendments



# Disclosures outside Canada - Changes

## Issue

- Previous provisions required data to be stored and accessed within Canada except under limited circumstances.
- Limited B.C. public sector's use of modern communication tools, software and other technologies to provide people with the services they expect.

## Solution

- Repeal the Act's data-residency provisions.
- Supplement to PIA required for disclosure and storage of sensitive personal information outside Canada.
- Allows for risk-based decision making by head of public body.





# Disclosures outside Canada - Assessment

If sensitive personal information is stored outside Canada.

- ➔ Where and how the sensitive personal information is stored.
- ➔ The likelihood that unauthorized collection, use, disclosure or storage of sensitive personal information will occur.
- ➔ The impact to an individual(s) if unauthorized collection, use, disclosure or storage of their sensitive personal information occurs.



# Privacy enhancements

## Issue

- Opportunities exist to improve government's public sector data security and privacy practices.

## Solutions

- Mandatory breach reporting for public bodies.
- Require public bodies to have a privacy management program.
- Added an offence for wilfully collecting or using personal information.
- Raised penalties for offences up to a maximum of \$50,000.
- Added an offence for wilfully destroying, altering, falsifying, or concealing records with the intent to evade a request for access to the records.
- Added the power to add subsidiary entities in scope of FOIPPA



# Data-linking clarification

## Issue

- Data-linking provisions had a complex and cumbersome schema defining what constitutes a new or expanded data-linking “initiative”

## Solution

- Repealed and replaced data linking provisions to be more inclusive
- Regulation with requirements still to be developed.
- Likely to include:
  - Principle based controls commensurate with reasonable risks
  - Transparency on summary data about the initiative



# Application fee for general requests

## **Issue**

- The volume and nature of requests received by BC public bodies is not sustainable.

## **Solution**

- Enable public bodies to collect a \$10 application fee for general FOI requests.
- Encourages applicants to be purposeful in making their FOI requests, enabling increased service efficiencies for the benefit of all FOI applicants.

# Support diversity, inclusion, reconciliation and/or equity

## Issue

- DRIPA and government's commitment to reconciliation highlight the need for existing legislation to recognize and reflect the rights of Indigenous peoples.
- GBA+ review of the Act, its purposes and its language revealed that there are unintended consequences to how the Act was drafted.

## Solutions

- Updated outdated and non-inclusive language.
- Removed the 15-year limitation on nondisclosure of information that could reasonably be expected to harm the conduct of relations with an Indigenous government.
- Replaced "aboriginal government" in Schedule 1 of the Act with a new definition of "Indigenous governing entity".
- Protect Indigenous cultural information.
- Enable more information sharing with Indigenous governing entities.

# Other amendment highlights

- Access limited to public body business.
- Excluded lawfully deleted records from access under the Act.
- Protected the identity of a third-party character reference from access under the Act.
- Expanded criteria where the Commissioner may approve a public body to disregard access requests.
- Permitted proactively disclosed records to be severed in the same way as they would in response to FOI.
- Added police chief associations as public bodies.
- Added indirect collection authorities when collecting from other provinces' "public bodies".
- Modernized collection notice requirements.
- Removed definition of "social media".

# Questions?

Additional resources available from:

[www.gov.bc.ca/FOIPPAupdates](http://www.gov.bc.ca/FOIPPAupdates)

