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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1236

02/14/2019 Authored by Lesch; Scott; Xiong, J.; Lucero; Noor and others
The bill was read for the first time and referred to the Public Safety and Criminal Justice Reform Finance and Policy Division
02/25/2019 By motion, recalled and re-referred to the Judiciary Finance and Civil Law Division
02/28/2019 Adoption of Report: Re-referred to the Public Safety and Criminal Justice Reform Finance and Policy Division

1.1 A bill for an act
1.2 relating to public safety; regulating the use of unmanned aerial vehicles by law
1.3 enforcement agencies; proposing coding for new law in Minnesota Statutes, chapter
1.4 626.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. 626.19 USE OF UNMANNED AERIAL VEHICLES.

1.7 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
1.8 the meanings given.

1.9 (b) "Law enforcement agency" has the meaning given in section 626.84, subdivision 1.

1.10 (c) "Unmanned aerial vehicle" or "UAV" means an aircraft that is operated without the
1.11 possibility of direct human intervention from within or on the aircraft.

1.12 Subd. 2. Use of unmanned aerial vehicles limited. Except as provided in subdivision
1.13 3, a law enforcement agency may not operate a UAV without a search warrant issued under
1.14 this chapter.

1.15 Subd. 3. Exceptions. (a) A law enforcement agency may operate a UAV and disclose
1.16 information collected from the operation in an emergency situation that involves a reasonably
1.17 likely threat to the life or safety of a person. A law enforcement agency that deploys a UAV
1.18 under this paragraph must document the factual basis for the emergency on a form created
1.19 for that purpose by the Bureau of Criminal Apprehension and submit a sworn statement
1.20 with the district court setting forth the grounds for the emergency use not later than 48 hours
1.21 after operation of the UAV commenced.

2.1 (b) A law enforcement agency may operate a UAV to collect information from a public
2.2 area if a court, upon motion, determines that there are specific and articulable facts
2.3 demonstrating reasonable suspicion of criminal activity, that the operation of the UAV will
2.4 uncover this activity, and that alternative methods of data collection are either cost prohibitive
2.5 or present a significant risk to any person's bodily safety. An order shall not be issued for
2.6 a period greater than 48 hours. Extensions of an order may be granted but shall be no longer
2.7 than the authorizing judge deems necessary to achieve the purposes for which it was granted
2.8 and in no event for longer than 30 days.

2.9 (c) A law enforcement agency may operate a UAV to counter a high risk of a terrorist
2.10 attack by a specific individual or organization if the agency determines that credible
2.11 intelligence indicates this risk. A law enforcement agency that deploys a UAV under this
2.12 paragraph must document the factual basis for the use on a form created for that purpose
2.13 by the Bureau of Criminal Apprehension and submit a sworn statement with the district
2.14 court setting forth the grounds for the use not later than 48 hours after operation of the UAV
2.15 commenced. The law enforcement agency may request that the form and statement be sealed.
2.16 An order must be issued granting the request in whole or in part if the court finds reasonable
2.17 grounds exist to believe that refusing the request may cause the search or a related search
2.18 to be unsuccessful, create a substantial risk of injury to an innocent person, or severely
2.19 hamper an ongoing investigation.

2.20 (d) A law enforcement agency may operate a UAV to prevent the loss of life and property
2.21 in natural or man-made disasters and to facilitate the operational planning, rescue, and
2.22 recovery operations in the aftermath of these disasters. A law enforcement agency that
2.23 deploys a UAV under this paragraph must document the factual basis for the use on a form
2.24 created for that purpose by the Bureau of Criminal Apprehension and submit a sworn
2.25 statement with the district court setting forth the grounds for the use not later than 48 hours
2.26 after operation of the UAV commenced.

2.27 Subd. 4. **Limitations on use.** (a) A law enforcement agency operating a UAV must fully
2.28 comply with all Federal Aviation Administration requirements and guidelines.

2.29 (b) Acquisition of UAVs must be approved by the governmental entity overseeing the
2.30 law enforcement agency.

2.31 (c) Unless specifically authorized in the warrant or order, a UAV shall be operated in a
2.32 manner to collect data only on a clearly and narrowly defined target and to avoid data
2.33 collection on individuals, homes, or areas other than the defined target.

3.1 (d) A law enforcement agency may not deploy facial recognition or other
3.2 biometric-matching technology via a UAV unless expressly authorized to do so through a
3.3 court order or warrant.

3.4 (e) UAVs may not be equipped with weapons.

3.5 Subd. 5. **Consensual disclosure of information.** A law enforcement agency may disclose
3.6 or receive information about any person acquired through the operation of a UAV if the
3.7 person has given written consent to the disclosure.

3.8 Subd. 6. **Data retention and classification.** (a) No data collected on an individual,
3.9 home, or area other than the subject identified in the warrant or order may be used, copied,
3.10 or disclosed for any purpose except as provided in subdivision 5. Notwithstanding section
3.11 138.17, the data must be deleted as soon as possible, and in no event later than 24 hours
3.12 after collection.

3.13 (b) Data collected pursuant to this section is criminal investigative data under section
3.14 13.82, subdivision 7.

3.15 Subd. 7. **Evidence.** Information obtained or collected by a law enforcement agency in
3.16 violation of this section is not admissible as evidence in a criminal prosecution in any court
3.17 of law in this state.

3.18 Subd. 8. **Notice.** (a) Within a reasonable time but not later than 90 days after the court
3.19 unseals a warrant under this subdivision, the issuing or denying judge shall cause to be
3.20 served on the persons named in the warrant and the application an inventory that shall
3.21 include notice of:

3.22 (1) the fact of the issuance of the warrant or the application;

3.23 (2) the date of the issuance and the period of authorized, approved, or disapproved
3.24 collection of information, or the denial of the application; and

3.25 (3) the fact that during the period information was or was not collected.

3.26 (b) A warrant authorizing collection of information must direct that:

3.27 (1) the warrant be sealed for a period of 90 days or until the objective of the warrant has
3.28 been accomplished, whichever is shorter; and

3.29 (2) the warrant be filed with the court administrator within ten days of the expiration of
3.30 the warrant.

3.31 (c) The prosecutor may request that the warrant, supporting affidavits, and any order
3.32 granting the request not be filed. An order must be issued granting the request in whole or

4.1 in part if, from affidavits, sworn testimony, or other evidence, the court finds reasonable
4.2 grounds exist to believe that filing the warrant may cause the search or a related search to
4.3 be unsuccessful, create a substantial risk of injury to an innocent person, or severely hamper
4.4 an ongoing investigation.

4.5 (d) The warrant must direct that following the commencement of any criminal proceeding
4.6 utilizing evidence obtained in or as a result of the search, the supporting application or
4.7 affidavit must be filed either immediately or at any other time as the court directs. Until
4.8 such filing, the documents and materials ordered withheld from filing must be retained by
4.9 the judge or the judge's designee.

4.10 Subd. 9. Remedies for violation. An aggrieved party may initiate a civil action against
4.11 a law enforcement agency to obtain all appropriate relief to prevent or remedy a violation
4.12 of this section.

4.13 Subd. 10. Reporting. (a) By January 15 of each year, each law enforcement agency that
4.14 uses UAVs shall report to the commissioner of public safety the following information for
4.15 the preceding calendar year:

4.16 (1) the number of times a UAV was used, organized by the types of incidents and the
4.17 types of justification for deployment;

4.18 (2) the number of criminal investigations aided by the use of UAVs;

4.19 (3) the number of uses of UAVs for reasons other than criminal investigations; and

4.20 (4) the total cost of the agency's UAV program.

4.21 (b) By June 15 of each year, the commissioner of public safety shall compile a full and
4.22 complete report summarizing the information submitted to the commissioner under paragraph
4.23 (a), and submit the report to the chairs and ranking minority members of the senate and
4.24 house of representatives committees having jurisdiction over criminal justice and public
4.25 safety issues and make the report public on the department's website.

4.26 (c) By January 15 of each year, any judge who has issued a warrant or order under this
4.27 section that expired during the preceding year, or who has denied approval during that year,
4.28 shall report to the state court administrator:

4.29 (1) the fact that a warrant, order, or extension was applied for;

4.30 (2) the kind of warrant, order, or extension applied for;

4.31 (3) the fact that the warrant, order, or extension was granted as applied for, was modified,
4.32 or was denied;

5.1 (4) the period of UAV use authorized by the warrant or order, and the number and
5.2 duration of any extensions of the warrant or order;

5.3 (5) the offense specified in the warrant, order, or application, or extension of a warrant
5.4 or order; and

5.5 (6) the identity of the law enforcement agency making the application and the person
5.6 authorizing the application.

5.7 (d) By June 15 of each year, the state court administrator shall transmit to the chairs and
5.8 ranking minority members of the senate and house of representatives committees having
5.9 jurisdiction over criminal justice and public safety issues and post on the supreme court's
5.10 website a full and complete report concerning the number of applications for warrants or
5.11 orders authorizing or approving operation of UAVs or disclosure of information from the
5.12 operation of UAVs under this section and the number of warrants, orders, and extensions
5.13 granted or denied under this section during the preceding calendar year. The report must
5.14 include a summary and analysis of the data required to be filed with the state court
5.15 administrator by paragraph (c).