SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 3074

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; classifying data; amending Minnesota Statutes 2018, section
1.4   13.82, subdivision 15, by adding a subdivision; proposing coding for new law in
1.5   Minnesota Statutes, chapter 626.

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

1.7   Section 1. Minnesota Statutes 2018, section 13.82, subdivision 15, is amended to read:

1.8   Subd. 15. **Public benefit data.** Any law enforcement agency may make any data

1.9   classified as confidential or protected nonpublic pursuant to subdivision 7 or as private or

1.10   nonpublic under section 13.825 or 626.19 accessible to any person, agency, or the public

1.11   if the agency determines that the access will aid the law enforcement process, promote

1.12   public safety, or dispel widespread rumor or unrest.

1.13   Sec. 2. Minnesota Statutes 2018, section 13.82, is amended by adding a subdivision to

1.14   read:

1.15   Subd. 32. **Unmanned aerial vehicles.** Section 626.19 governs data collected, created,

1.16   or maintained through the use of an unmanned aerial vehicle.

1.17   Sec. 3. **[626.19] USE OF UNMANNED AERIAL VEHICLES.**

1.18   Subdivision 1. **Application; definitions.** (a) This section applies to unmanned aerial

1.19   vehicle data collected, created, or maintained by a law enforcement agency and to law

1.20   enforcement agencies that maintain, use, or plan to use an unmanned aerial vehicle in

1.21   investigations, training, or in response to emergencies, incidents, and requests for service.

2.1   Unmanned aerial vehicle data collected, created, or maintained by a government entity is

2.2   classified under chapter 13.

2.3   (b) For purposes of this section, the following terms have the meanings given:

2.4   (1) "government entity" has the meaning given in section 13.02, subdivision 7a, except

2.5   that it does not include a law enforcement agency;

2.6   (2) "law enforcement agency" has the meaning given in section 626.84, subdivision 1;

2.7   (3) "unmanned aerial vehicle" or "UAV" means an aircraft that is operated without the

2.8   possibility of direct human intervention from within or on the aircraft; and

2.9   (4) "terrorist attack" means a crime that furthers terrorism as defined in section 609.714,

2.10   subdivision 1.

2.11   Subd. 2. **Use of unmanned aerial vehicles limited.** Except as provided in subdivision

2.12   3, a law enforcement agency must not use a UAV without a search warrant issued under

2.13   this chapter.

2.14   Subd. 3. **Authorized use.** A law enforcement agency may use a UAV:

2.15   (1) during or in the aftermath of an emergency situation that involves the risk of death

2.16   or bodily harm to a person;

2.17   (2) over a public event where there is a heightened risk to the safety of participants or

2.18   bystanders;

2.19   (3) to counter the risk of a terrorist attack by a specific individual or organization if the

2.20   agency determines that credible intelligence indicates a risk;

2.21   (4) to prevent the loss of life and property in natural or man-made disasters and to

2.22   facilitate operational planning, rescue, and recovery operations in the aftermath of these

2.23   disasters;

2.24   (5) to conduct a threat assessment in anticipation of a specific event;

2.25   (6) to collect information from a public area if there is reasonable suspicion of criminal

2.26   activity;

2.27   (7) to collect information for crash reconstruction purposes after a serious or deadly

2.28   collision occurring on a public road;

2.29   (8) over a public area for officer training or public relations purposes; and

3.1   (9) for purposes unrelated to law enforcement at the request of a government entity

3.2   provided that the government entity makes the request in writing to the law enforcement

3.3   agency and specifies the reason for the request and proposed period of use.

3.4   Subd. 4. **Limitations on use.** (a) A law enforcement agency using a UAV must comply

3.5   with all Federal Aviation Administration requirements and guidelines.

3.6   (b) The governing body overseeing the law enforcement agency must approve the

3.7   agency's acquisition of a UAV.

3.8   (c) A law enforcement agency must not deploy a UAV with facial recognition or other

3.9   biometric-matching technology unless expressly authorized by a warrant.

3.10   (d) A law enforcement agency must not equip a UAV with weapons.

3.11   (e) A law enforcement agency must not use a UAV to collect data on public protests or

3.12   demonstrations unless expressly authorized by a warrant or an exception applies under

3.13   subdivision 3.

3.14   Subd. 5. **Documentation required.** A law enforcement agency must document each

3.15   use of a UAV, connect each deployment to a unique case number, provide a factual basis

3.16   for the use of a UAV, and identify the applicable exception under subdivision 3 unless a

3.17   warrant was obtained.

3.18   Subd. 6. **Data classification; retention.** (a) Data collected by a UAV are private data

3.19   on individuals or nonpublic data, subject to the following:

3.20   (1) if the individual requests a copy of the recording, data on other individuals who do

3.21   not consent to its release must be redacted from the copy;

3.22   (2) UAV data may be disclosed as necessary in an emergency situation under subdivision

3.23   3, clause (1);

3.24   (3) UAV data may be disclosed to the government entity making a request for UAV use

3.25   under subdivision 3, clause (9);

3.26   (4) UAV data that are criminal investigative data are governed by section 13.82,

3.27   subdivision 7; and

3.28   (5) UAV data that are not public data under other provisions of chapter 13 retain that

3.29   classification.

3.30   (b) Section 13.04, subdivision 2, does not apply to data collected by a UAV.

4.1   (c) Notwithstanding section 138.17, a law enforcement agency must delete data collected

4.2   by a UAV as soon as possible, and in no event later than seven days after collection unless

4.3   the data is part of an active criminal investigation.

4.4   Subd. 7. **Evidence.** Information obtained or collected by a law enforcement agency in

4.5   violation of this section is not admissible as evidence in a criminal, administrative, or civil

4.6   proceeding against the data subject.

4.7   Subd. 8. **Remedies.** In addition to any other remedies provided by law, including remedies

4.8   available under chapter 13, an aggrieved party may bring a civil action against a law

4.9   enforcement agency to prevent or remedy a violation of this section.

4.10   Subd. 9. **Written policies required.** The chief officer of every state and local law

4.11   enforcement agency that uses or plans to use a UAV must establish and enforce a written

4.12   policy governing UAV use, including requests for use from government entities. The agency

4.13   must post the written policy on its website, if the agency has a website.

4.14   Subd. 10. **Notice; disclosure of warrant.** (a) Within a reasonable time but not later than

4.15   90 days after the court unseals a warrant under this subdivision, the issuing or denying judge

4.16   shall cause to be served on the persons named in the warrant and the application an inventory

4.17   that shall include notice of:

4.18   (1) the issuance of the warrant or application;

4.19   (2) the date of issuance and the period of authorized, approved, or disapproved collection

4.20   of information, or the denial of the application; and

4.21   (3) whether information was or was not collected during the period.

4.22   (b) A warrant authorizing collection of information with a UAV must direct that:

4.23   (1) the warrant be sealed for a period of 90 days or until the objective of the warrant has

4.24   been accomplished, whichever is shorter; and

4.25   (2) the warrant be filed with the court administrator within ten days of the expiration of

4.26   the warrant.

4.27   (c) The prosecutor may request that the warrant, supporting affidavits, and any order

4.28   granting the request not be filed. An order must be issued granting the request in whole or

4.29   in part if, from affidavits, sworn testimony, or other evidence, the court finds reasonable

4.30   grounds exist to believe that filing the warrant may cause the search or a related search to

4.31   be unsuccessful, create a substantial risk of injury to an innocent person, or severely hamper

4.32   an ongoing investigation.

5.1   (d) The warrant must direct that following the commencement of any criminal proceeding

5.2   using evidence obtained in or as a result of the search, the supporting application or affidavit

5.3   must be filed either immediately or at any other time as the court directs. Until the filing,

5.4   the documents and materials ordered withheld from filing must be retained by the judge or

5.5   the judge's designee.

5.6   Subd. 11. **Reporting.** (a) By January 15 of each year, each law enforcement agency that

5.7   maintains, uses, or plans to use a UAV shall report to the commissioner of public safety the

5.8   following information for the preceding calendar year:

5.9   (1) the number of times a UAV was deployed, organized by the types of incidents and

5.10   the justification for deployment;

5.11   (2) the number of criminal investigations aided by the deployment of UAVs;

5.12   (3) the number of deployments of UAVs for reasons other than criminal investigations;

5.13   and

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

5.15   (b) By June 15 of each year, the commissioner of public safety shall compile a full and

5.16   complete report summarizing the information submitted to the commissioner under paragraph

5.17   (a), submit the report to the chairs and ranking minority members of the senate and house

5.18   of representatives committees having jurisdiction over data practices and public safety, and

5.19   make the report public on the department's website.

5.20   (c) By January 15 of each year, a judge who has issued or denied approval of a warrant

5.21   under this section that expired during the preceding year shall report to the state court

5.22   administrator:

5.23   (1) that a warrant or extension was applied for;

5.24   (2) the type of warrant or extension applied for;

5.25   (3) whether the warrant or extension was granted as applied for, modified, or denied;

5.26   (4) the period of UAV use authorized by the warrant and the number and duration of

5.27   any extensions of the warrant;

5.28   (5) the offense specified in the warrant or application or extension of a warrant; and

5.29   (6) the identity of the law enforcement agency making the application and the person

5.30   authorizing the application.

6.1   (d) By June 15 of each year, the state court administrator shall submit to the chairs and

6.2 ranking minority members of the senate and house of representatives committees having

6.3 jurisdiction over data practices and public safety and post on the supreme court's website a

6.4 full and complete report concerning the number of applications for warrants authorizing or

6.5 approving use of UAVs or disclosure of information from the use of UAVs under this section

6.6 and the number of warrants and extensions granted or denied under this section during the

6.7 preceding calendar year. The report must include a summary and analysis of the data required

6.8 to be filed with the state court administrator under paragraph (c).