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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **222**

01/20/2015 Authored by Cornish, Hilstrom, Zerwas and Simonson

The bill was read for the first time and referred to the Committee on Civil Law and Data Practices

03/12/2015 Adoption of Report: Amended and re-referred to the Committee on Public Safety and Crime Prevention Policy and Finance

1.1 A bill for an act  
1.2 relating to data practices; classifying data related to automated license plate  
1.3 readers and requiring a governing policy; requiring a log of use; requiring data  
1.4 to be destroyed in certain circumstances; requiring an inventory of surveillance  
1.5 technology; requiring a report; amending Minnesota Statutes 2014, section  
1.6 13.82, subdivision 2; proposing coding for new law in Minnesota Statutes,  
1.7 chapters 13; 626.

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

1.9 Section 1. [13.026] INVENTORY OF SURVEILLANCE TECHNOLOGY.

1.10 Subdivision 1. **Inventory required.** The responsible authority of a government  
1.11 entity shall prepare and update an inventory of surveillance technology maintained or used  
1.12 by the government entity. For purposes of this section, "surveillance technology" means  
1.13 technology that can be used to track the location, personal characteristics, or activities of  
1.14 an individual or the property of an individual.

1.15 Subd. 2. **Report.** By January 15 of each year, a government entity shall submit  
1.16 a report to the legislature that includes an inventory of all surveillance technologies  
1.17 maintained or used by the government entity during the previous calendar year and any  
1.18 new surveillance technology that the government entity may maintain or use during the  
1.19 current calendar year. The report must be submitted to the chairs and ranking minority  
1.20 members of the policy committees of the legislature with jurisdiction over data practices  
1.21 issues, and is public at all times.

1.22 Sec. 2. Minnesota Statutes 2014, section 13.82, subdivision 2, is amended to read:

1.23 Subd. 2. **Arrest data.** The following data created or collected by law enforcement  
1.24 agencies which document any actions taken by them to cite, arrest, incarcerate or

2.1 otherwise substantially deprive an adult individual of liberty shall be public at all times  
2.2 in the originating agency:

2.3 (a) time, date and place of the action;

2.4 (b) any resistance encountered by the agency;

2.5 (c) any pursuit engaged in by the agency;

2.6 (d) whether any weapons were used by the agency or other individual;

2.7 (e) the charge, arrest or search warrants, or other legal basis for the action;

2.8 (f) the identities of the agencies, units within the agencies and individual persons  
2.9 taking the action;

2.10 (g) whether and where the individual is being held in custody or is being incarcerated  
2.11 by the agency;

2.12 (h) the date, time and legal basis for any transfer of custody and the identity of the  
2.13 agency or person who received custody;

2.14 (i) the date, time and legal basis for any release from custody or incarceration;

2.15 (j) the name, age, sex and last known address of an adult person or the age and sex  
2.16 of any juvenile person cited, arrested, incarcerated or otherwise substantially deprived  
2.17 of liberty;

2.18 (k) whether the agency employed an automated license plate reader, wiretaps or  
2.19 other eavesdropping techniques, unless the release of this specific data would jeopardize  
2.20 an ongoing investigation;

2.21 (l) the manner in which the agencies received the information that led to the arrest  
2.22 and the names of individuals who supplied the information unless the identities of those  
2.23 individuals qualify for protection under subdivision 17; and

2.24 (m) response or incident report number.

2.25 **Sec. 3. [13.824] AUTOMATED LICENSE PLATE READERS.**

2.26 **Subdivision 1. Definition.** As used in this section, "automated license plate reader"  
2.27 means government data derived from an automated reader that captures motor vehicle  
2.28 license plate numbers. Automated license plate reader includes a device that is owned  
2.29 or operated by a person who is not a government entity to the extent that data collected  
2.30 by the reader are shared with a law enforcement agency.

2.31 **Subd. 2. Data collection; classification; use restrictions.** (a) Data collected by an  
2.32 automated license plate reader must be limited to the following:

2.33 (1) license plate numbers;

2.34 (2) date, time, and location data on vehicles; and

2.35 (3) pictures of license plates, vehicles, and areas surrounding the vehicles.

3.1 Collection of any data not authorized by this paragraph is prohibited.

3.2 (b) All data collected by an automated license plate reader are private data on  
3.3 individuals or nonpublic data unless the data are public under section 13.82, subdivisions  
3.4 2, 3, or 6, or are active criminal investigative data under section 13.82, subdivision 7.  
3.5 Maintenance of data collected from an automated license plate reader, without additional  
3.6 evidence and a reasonable, articulable suspicion that the data relates to the commission  
3.7 of a crime, is not sufficient to constitute an active criminal investigation for purposes of  
3.8 section 13.82, subdivision 7. Data that are inactive criminal investigative data are subject  
3.9 to the destruction standards provided in subdivision 3.

3.10 (c) A law enforcement agency must only use the Minnesota license plate data file  
3.11 and may not develop or organize its own data files or database for matching data collected  
3.12 from an automated license plate reader, unless the data is intended to locate a specific  
3.13 person that is the subject of an active criminal investigation. A central state repository of  
3.14 automated license plate reader data is prohibited unless explicitly authorized by law.

3.15 (d) An automated license plate reader may not be used to target and track, at a  
3.16 specific location, a person subject to an active criminal investigation except if authorized  
3.17 by warrant.

3.18 Subd. 3. **Destruction of data required.** (a) Notwithstanding section 138.17, data  
3.19 collected by an automated license plate reader must be destroyed:

3.20 (1) within 30 days from the time of collection, if the data are classified under  
3.21 subdivision 2, provided that if the law enforcement agency has received a written request  
3.22 that the data be preserved from an individual who is the subject of a pending criminal  
3.23 charge or complaint that includes the case or complaint number and a statement that  
3.24 the data may be used as exculpatory evidence, the data must not be destroyed until the  
3.25 criminal charge or complaint is resolved or dismissed; or

3.26 (2) upon request of a program participant under chapter 5B, at the time of collection  
3.27 or upon receipt of the request, whichever occurs later, unless the data are active criminal  
3.28 investigative data.

3.29 (b) Data on a request of a program participant under paragraph (a), clause (2), are  
3.30 private data on individuals.

3.31 Subd. 4. **Sharing among law enforcement agencies.** (a) Automated license plate  
3.32 reader data may only be shared with, or disseminated to, another law enforcement agency  
3.33 upon a reasonable, articulable suspicion that the data relates to the commission of a crime.  
3.34 A request for data sharing under this paragraph must meet the standards for requesting  
3.35 access to data as provided in subdivision 7, paragraph (a).

4.1 (b) If data collected by an automated license plate reader are shared with another  
4.2 law enforcement agency, the agency that receives the data must comply with all data  
4.3 classification, destruction, and security requirements of this section.

4.4 (c) Automated license plate reader data may not be shared with, disseminated to,  
4.5 sold, or traded with any other individual or entity unless explicitly authorized by this  
4.6 subdivision or law.

4.7 Subd. 5. **Log of use required.** (a) A law enforcement agency that installs or  
4.8 uses an automated license plate reader must maintain a public log of its use, including  
4.9 but not limited to:

4.10 (1) specific times of day that the reader actively collected data;

4.11 (2) the aggregate number of vehicles or license plates on which data are collected for  
4.12 each period of active use;

4.13 (3) for each period of active use, the number of vehicles or license plates in each of  
4.14 the following categories where the data identify a vehicle or license plate that has been  
4.15 stolen, a warrant for the arrest of the owner of the vehicle or an owner with a suspended or  
4.16 revoked driver's license or similar category, or are active investigative data; and

4.17 (4) for a reader at a stationary or fixed location, the location at which the reader  
4.18 actively collected data and is installed and used.

4.19 (b) The law enforcement agency must maintain a list of the current and previous  
4.20 locations, including dates at those locations, of any fixed stationary automated license  
4.21 plate readers used by the agency. The agency's list must be accessible to the public.

4.22 Subd. 6. **Annual audit.** (a) In addition to the log required under subdivision 5,  
4.23 the law enforcement agency must maintain records showing the date and time the data  
4.24 were collected and the applicable classification of the data. The law enforcement agency  
4.25 shall arrange for an independent, annual audit of the records to determine whether data  
4.26 currently in the records are classified, how the data are used, whether they are destroyed  
4.27 as required under this section, and to verify compliance with subdivision 7. Data in the  
4.28 records required under this paragraph are classified as provided in subdivision 2.

4.29 (b) The results of the audit are public. A law enforcement agency determined to  
4.30 be in a pattern of substantial noncompliance with this section must immediately suspend  
4.31 operation of all automated license plate reader devices until such time as the legislature  
4.32 has authorized the agency, by law, to reinstate their use. An order of suspension under  
4.33 this paragraph shall be issued by the commissioner of administration, upon review of the  
4.34 results of the audit, review of the applicable provisions of this chapter, and after providing  
4.35 the agency a reasonable opportunity to respond to the audit's findings.

5.1 (c) A report summarizing the results of each audit must be provided to the  
5.2 commissioner of administration and to the chair and ranking minority members of the  
5.3 committees of the house of representatives and the senate with jurisdiction over data  
5.4 practices and public safety issues, no later than 30 days following completion of the audit.

5.5 Subd. 7. **Authorization to access data.** (a) A law enforcement agency must comply  
5.6 with sections 13.05, subdivision 5, and 13.055 in the operation of automated license  
5.7 plate readers and access to the data. The responsible authority for a law enforcement  
5.8 agency must establish written procedures to ensure that law enforcement personnel have  
5.9 access to the data only if authorized in writing, on a case-by-case basis, by the chief of  
5.10 police, sheriff, or head of the law enforcement agency, or their designee, to obtain access  
5.11 to data collected by an automated license plate reader for a legitimate, specified, and  
5.12 documented law enforcement purpose. Access to the data must be pertinent to an active  
5.13 criminal investigation, and a request for access must include a record of the factual basis  
5.14 for the request and any associated case number, complaint, or incident that is the basis  
5.15 for the request.

5.16 (b) The ability of authorized individuals to enter, update, or access data must be  
5.17 limited through the use of role-based access that corresponds to the official duties or  
5.18 training level of the individual and the statutory authorization that grants access for that  
5.19 purpose. All queries and responses, and all actions in which data are entered, updated,  
5.20 accessed, shared, or disseminated, must be recorded in a data audit trail. Data contained in  
5.21 the audit trail are public, to the extent that the data are not otherwise classified by law.

5.22 Subd. 8. **Notification to Bureau of Criminal Apprehension.** (a) Within ten days  
5.23 of the installation or current use of an automated license plate reader, a law enforcement  
5.24 agency must notify the Bureau of Criminal Apprehension of any fixed location of a  
5.25 stationary automated license plate reader and, if applicable, if the agency uses any other  
5.26 automated license plate reader or any other type of electronic device or technology that  
5.27 collects data on motor vehicles or occupants that may be used for identification purposes  
5.28 or for tracking activities of motor vehicles or individuals.

5.29 (b) The Bureau of Criminal Apprehension must maintain a list of law enforcement  
5.30 agencies using automated license plate readers, including locations of any fixed stationary  
5.31 automated license plate readers. Except to the extent that the law enforcement agency  
5.32 determines that the location of a specific reader is security information, as defined in  
5.33 section 13.37, this list is accessible to the public and must be available on the bureau's  
5.34 Web site. A determination that the location of a reader is security information is subject to  
5.35 in camera judicial review, as provided in section 13.08, subdivision 4.

6.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.  
6.2 Data collected before the effective date of this section must be destroyed, if required by  
6.3 this section, no later than 15 days after the date this section becomes effective.

6.4 Sec. 4. **[626.8472] AUTOMATED LICENSE PLATE READER POLICY.**

6.5 The chief law enforcement officer of every state and local law enforcement agency  
6.6 shall establish and enforce a written policy governing automated license plate readers. A  
6.7 law enforcement agency that does not comply with this section must not use an automated  
6.8 license plate reader. At a minimum, the policies and procedures must incorporate the  
6.9 requirements of section 13.824, and the employee discipline standards for unauthorized  
6.10 access to data contained in section 13.09.

6.11 **EFFECTIVE DATE.** This section is effective the day following final enactment,  
6.12 provided that chief law enforcement officers shall adopt the policy required under this  
6.13 section no later than January 15, 2016.