

1 S.18

2 Introduced by Senators Ashe and Benning

3 Referred to Committee on Judiciary

4 Date: January 14, 2015

5 Subject: Privacy; electronic communications; medical records; drones;
6 automated license plate readers

7 Statement of purpose of bill as introduced: This bill proposes a number of
8 measures intended to enhance privacy protection. The bill includes the
9 following provisions:

10 (1) The bill proposes to require that a court issue a search warrant before
11 a company providing electronic communication services, remote computing
12 services, or location information services may release certain customer records
13 to a government office or public official.

14 (2) The bill proposes to establish a private right of action for a person
15 whose health care information is improperly disclosed by another person.

16 (3) The bill proposes to establish regulations for the use of drones, also
17 known as unmanned aerial vehicles. The bill proposes to permit a law
18 enforcement agency to use a drone only if the agency obtains a warrant or if
19 emergency circumstances exist.

20 (4) The bill proposes to restrict the use of automated license plate
21 recognition (ALPR) systems, to require data captured by ALPR systems to be

1 kept confidential, and to limit such data from being retained for more than
2 24 hours, unless certain exceptions apply.

3 An act relating to privacy protection

4 It is hereby enacted by the General Assembly of the State of Vermont:

5 ~~Sec. 1. 13 V.S.A. § 4704 is added to read.~~

6 § 4704. WARRANTS FOR RECORDS HELD BY COMPANIES

7 PROVIDING ELECTRONIC COMMUNICATIONS SERVICES,

8 REMOTE COMPUTING SERVICES, OR LOCATION

9 INFORMATION SERVICES

10 (a) As used in this section:

11 (1) “Adverse result” means a result that occurs when notification of the
12 existence of a search warrant causes:

13 (A) danger to the life or physical safety of an individual;

14 (B) flight from prosecution;

15 (C) the destruction of or tampering with evidence;

16 (D) the intimidation of a potential witness or witnesses; or

17 (E) serious jeopardy to an investigation or undue delay of a trial.

18 (2) “Electronic communication services” shall have the same meaning
19 as that term has when construed under 18 U.S.C. §§ 2701–2711.

1 ~~(3) “Electronic device” means any device that enables access to, or use~~
2 ~~of, an electronic communication service, remote computing service, or location~~
3 ~~information service.~~

4 (4) “Foreign corporation” means any corporation, person, or other entity
5 that makes a contract or engages in a terms of service agreement with a
6 resident of Vermont to be performed in whole or in part by either party in
7 Vermont. The making of the contract or terms of service agreement shall be
8 considered to be the agreement of the foreign corporation that a search warrant
9 or subpoena which has been properly served on it has the same legal force and
10 effect as if served personally within Vermont.

11 (5) “Location information” means any information concerning the
12 location of an electronic device that, in whole or in part, is generated by or
13 derived from the operation of that device.

14 (6) “Location information service” means a global positioning service or
15 other mapping, locational, or directional information service.

16 (7) “Properly served” means delivery of a search warrant or subpoena
17 by hand, by U.S. mail, by commercial delivery service, by facsimile, or by any
18 other manner to any officer of a corporation or its general manager, to any
19 natural person designated by it as agent for the service of process, or if the
20 corporation has designated a corporate agent, to any person named in the latest
21 certificate filed with the Secretary of State.

1 ~~(8) "Remote computing services" shall have the same meaning as that~~
2 ~~term has when construed under 18 U.S.C. §§ 2701–2711.~~

3 (9) "Subpoena" means a grand jury or trial subpoena issued in the
4 course of a criminal proceeding, an inquest subpoena issued pursuant to
5 chapter 161 of this title, or any administrative subpoena issued pursuant to
6 Vermont law.

7 (10) "Vermont corporation" means any domestic corporation, sole
8 proprietorship, association, partnership, company, or any entity that is subject
9 to the provisions of Title 11, 11A, 11B, or 11C.

10 (b)(1) A Vermont or foreign corporation that provides electronic
11 communication services, remote computing services, or location information
12 services shall not release any of the following customer records to a
13 government office or public official unless the release is authorized by a
14 properly issued warrant:

15 (A) records which would reveal the identity of a customer using the
16 company's services;

17 (B) data stored by or on behalf of a customer;

18 (C) records of a customer's usage of the company's services;

19 (D) records of the source of communications sent to a customer or of
20 the recipient or destination of communications sent from a customer;

21 (E) the content of communications sent to or by a customer; or

1 ~~(F) location information of the customer.~~

2 (2) A warrant required by this section shall identify with particularity
3 the things to be searched and seized and shall require the person making
4 application for the warrant to serve it properly upon the corporation.

5 (c) The following provisions shall apply to a search warrant required by
6 this section and to a subpoena issued in the course of a criminal investigation
7 or proceeding directed to a Vermont or foreign corporation that provides
8 electronic communication services, remote computing services, or location
9 services:

10 (1) When served properly with a subpoena or a search warrant required
11 by this section, a corporation shall provide all records sought by the warrant or
12 subpoena within 14 days of receipt, including those records maintained or
13 located outside Vermont.

14 (2) If the Court finds upon motion of the applicant that failure to
15 produce records within 14 days would cause an adverse result, a warrant may
16 require production of records within less than 14 days.

17 (3) The Court may upon motion of the applicant grant a reasonable
18 extension of the time required for production of the records if it finds that the
19 corporation has shown good cause for that extension and that the extension
20 would not cause an adverse result.

1 ~~(4)(A) A corporation may file a motion to quash a warrant or subpoena~~
2 served on it under this section. Except as provided in subdivisions (B) and (C)
3 of this subdivision (4), the motion shall be filed in the Superior Court that
4 issued the warrant or the Superior Court which has jurisdiction over the
5 subpoena. The motion shall be filed within the time required for production of
6 records pursuant to this section and shall be ruled upon no later than 14 days
7 after it is filed.

8 (B) In the case of a subpoena issued by the Attorney General or a
9 State agency, the motion to quash shall be filed in the Civil Division of the
10 Washington County Superior Court.

11 (5) In the case of a subpoena issued by a government agency or officer
12 other than the Attorney General or a State agency, including State's Attorneys,
13 the motion to quash shall be filed in the Superior Court of the county in which
14 the agency or officer maintains an office.

15 (6) A corporation shall verify the authenticity of records it produces in
16 response to a subpoena or a search warrant required by this section by
17 providing an affidavit from the person in custody of the records certifying that
18 the records are true and complete.

19 (d) When served with a warrant or subpoena issued by another state to
20 produce records that would reveal the identity of the customers using those
21 services, data stored by or on behalf of the customer, the customer's usage of

1 ~~those services, the recipient or destination of communications sent to or from~~
2 those customers, or the content of those communications, a Vermont
3 corporation that provides electronic communication services or remote
4 computing services shall comply with this section and produce the records as if
5 the warrant or subpoena had been issued under the law of Vermont.

6 (e) Any person and any foreign or Vermont corporation shall be immune
7 from civil liability for providing records, information, facilities, or assistance
8 in compliance with a warrant or subpoena issued pursuant to the requirements
9 of this section.

10 (f) A search warrant issued pursuant to the requirements of this
11 section shall:

12 (1) designate the corporation or other entity in possession of the records
13 or data sought and describe, with particularity, the record systems and
14 information to be provided;

15 (2) be issued in the form and manner prescribed by Vermont Rule of
16 Criminal Procedure 41 insofar as it is applicable; and

17 (3) be directed to the government office or public official making
18 application for the warrant, who shall serve it upon the corporation or
19 other entity.

20 (g) Not later than seven days after information described in subdivisions
21 (b)(1)(A)–(F) of this section is obtained by a government office or public

1 ~~official pursuant to this section, the office or official shall provide the customer~~

2 or subscriber with a copy of the warrant, a copy of the application for the

3 warrant, and a statement containing the following information:

4 (1) a reasonably specific description of the nature of the law

5 enforcement inquiry;

6 (2) a statement that information maintained for the customer or

7 subscriber by the provider of an electronic communications service, remote

8 computing service, or location information service was requested by or

9 supplied to that government office or public official, and a description of

10 that information;

11 (3) the dates on which the requests were made and the information

12 supplied; and

13 (4) whether notification of the customer or subscriber was delayed under

14 subsection (h) of this section, and if so the Court that issued the order

15 authorizing the delay.

16 (h) An application for a warrant issued pursuant to the requirements of

17 subsection (b) of this section may include a motion to delay the notification

18 required by subsection (g) of this section for a period not to exceed 90 days, or

19 to delay notification of the existence of the warrant to any other person for a

20 period not to exceed 90 days. The Court shall grant the motion and issue an

21 order delaying the notification if it determines there is reason to believe that

1 ~~notification of the existence of the warrant may have an adverse result. Upon~~
2 expiration of any period of delay granted under this subsection, the applicant
3 shall provide the customer or subscriber a copy of the warrant together with the
4 notice required under subsection (g) of this section. An order to delay
5 notification under this subsection may upon motion of the applicant for the
6 warrant be extended for one or more additional 90-day periods.

7 (i) Notwithstanding any law to the contrary, a government office or public
8 official may obtain information described in subdivisions (b)(1)(A)–(F) of
9 this section:

10 (1) with the express consent of the owner or user of the electronic
11 communications device concerned;

12 (2) in order to respond to the user's call for emergency services; or

13 (3) if the government office or public official reasonably believes that an
14 emergency involving immediate danger of death or serious physical injury to
15 any person requires obtaining without delay information relating to the
16 emergency, provided that the request is narrowly tailored to address the
17 emergency and subject to the following limitations:

18 (A) the request shall document the factual basis for believing that an
19 emergency involving immediate danger of death or serious physical injury to a
20 person requires obtaining without delay the information relating to the
21 emergency; and

1 ~~(D) no later than 48 hours after the government office obtains access~~
2 to the records, it shall file with the Criminal Division in the county where the
3 records are obtained a sworn statement of a supervisory official of a rank
4 designated by the head of the office stating the grounds for the emergency
5 access.

6 (j) On the second Friday of September of each calendar year, each
7 territorial unit of the Superior Court which has issued or denied a warrant
8 under this section during the preceding calendar year shall report the following
9 information to the Supreme Court with respect to each warrant issued:

10 (1) the fact that the warrant was applied for;

11 (2) the identity of the agency making the application;

12 (3) the offense specified in the warrant or application;

13 (4) the place where the information was obtained and the nature of the
14 facilities that held it;

15 (5) whether the warrant was granted as applied for, modified, or
16 denied; and

17 (6) the period of disclosures authorized by the warrant, and the number
18 and duration of any extensions of the warrant.

19 (k) Commencing in 2015, on December 15, and annually on that date
20 thereafter, the Supreme Court shall report to the General Assembly the number
21 of applications for warrants authorizing or requiring the disclosure of

1 ~~information described in subdivisions (b)(1)(A)-(F) of this section. The report~~
2 shall include a summary and analysis of the data filed with the Supreme Court
3 under subsection (j) of this section. The report shall be filed with the offices of
4 the Clerk of the House and the Secretary of the Senate and shall be public
5 records. The Supreme Court may promulgate rules for the form of the reports.

6 (1) Except in a judicial proceeding alleging a violation of this section, no
7 information obtained in violation of this section shall be admissible in any
8 criminal, civil, administrative, or other proceeding.

9 Sec. 2. 18 V.S.A. chapter 42B is added to read:

10 CHAPTER 42B. HEALTH CARE PRIVACY

11 § 1881. DISCLOSURE OF PROTECTED HEALTH INFORMATION

12 PROHIBITED

13 (a) It is the intent of the General Assembly:

14 (1) that the Health Insurance Portability and Accountability Act of 1996
15 (HIPAA), codified at 42 U.S.C. § 1320d and 45 C.F.R. §§ 160–164, as from
16 time to time amended, serve as the standard for protected health information in
17 this State; and

18 (2) that in construing the section, the courts of this State shall be guided
19 by the construction of similar terms contained in HIPAA by the courts of the
20 United States.

1 ~~(b) As used in this section:~~

2 ~~(1) “Covered entity shall have the same meaning as in 45 C.F.R.~~

3 ~~§ 160.103.~~

4 ~~(2) “Protected health information” shall have the same meaning as in~~

5 ~~45 C.F.R. § 160.103.~~

6 ~~(c) A covered entity shall not disclose protected health information unless~~

7 ~~the disclosure is permitted under HIPAA.~~

8 ~~§ 1882. PRIVATE CAUSE OF ACTION~~

9 ~~A person whose protected health information is disclosed in violation of~~

10 ~~subsection 1881(c) of this title may bring an action in Superior Court for~~

11 ~~damages, injunctive relief, punitive damages in the case of a willful violation,~~

12 ~~and reasonable costs and attorney’s fees. The Court may issue an award for~~

13 ~~the person’s actual damages or \$500.00 for a first violation, or \$1,000.00 for~~

14 ~~each subsequent violation, whichever is greater. This section shall not limit~~

15 ~~any other claims a person aggrieved by a violation of this section may have~~

16 ~~under applicable law.~~

17 Sec. 3. 20 V.S.A. chapter 205 is added to read:

18 CHAPTER 205. DRONES

19 § 4621. DEFINITIONS

20 As used in this chapter:

21 (1) “Drone” means a powered aerial vehicle that does not carry a human

1 ~~operator and is able to fly autonomously or to be piloted remotely.~~

2 (2) "Law enforcement agency" means:

3 (A) the Department of Public Safety;

4 (B) a municipal police department;

5 (C) a sheriff's department;

6 (D) the Attorney General's Office;

7 (E) a State's Attorney's office;

8 (F) the Capitol Police Department;

9 (G) the Department of Liquor Control;

10 (H) the Department of Fish and Wildlife;

11 (I) the Department of Motor Vehicles;

12 (J) a State investigator; or

13 (K) a person or entity acting on behalf of an agency listed in this

14 subdivision (2).

15 § 4622. LAW ENFORCEMENT USE OF DRONES

16 (a) Except as provided in subsection (b) of this section, a law enforcement
17 agency shall not use a drone for any purpose or disclose or receive information
18 acquired through the operation of a drone.

19 (b) A law enforcement agency may use a drone and may disclose or receive
20 information acquired through the operation of a drone if the drone is operated
21 under:

1 ~~(1) a warrant obtained pursuant to Rule 41 of the Vermont Rules of~~

2 ~~Criminal Procedure; or~~

3 ~~(2) emergency circumstances pursuant to section 4623 of this title.~~

4 ~~(c)(1) When a drone is used pursuant to subsection (b) of this section, the~~

5 ~~drone shall be operated in a manner to collect data only on the target of the~~

6 ~~surveillance and to avoid data collection on any other person, home, or area.~~

7 ~~(2) If a drone used pursuant to subsection (b) of this section collects data~~

8 ~~on any person, home, or area other than the target of the surveillance, the data:~~

9 ~~(A) shall not be used, copied, or disclosed for any purpose; and~~

10 ~~(B) shall be deleted as soon as possible and in no event later than~~

11 ~~24 hours after the data were collected.~~

12 ~~(3) Facial recognition or any other biometric matching technology shall~~

13 ~~not be used on any data that a drone collects on any person, home, or area~~

14 ~~other than the target of the surveillance.~~

15 ~~(d) Information or evidence gathered in violation of this section shall be~~

16 ~~inadmissible in any judicial or administrative proceeding.~~

17 ~~(e) Drones shall not be equipped with weapons.~~

18 ~~§ 4623. USE OF DRONES IN EMERGENCY SITUATIONS~~

19 ~~(a) A law enforcement agency may use a drone and may disclose or receive~~

20 ~~information acquired through the operation of a drone if:~~

21 ~~(1) an emergency situation exists in which it is reasonable to believe~~

1 ~~there is an imminent threat of death or serious bodily injury to any person; and~~

2 (2) the law enforcement agency obtains a search warrant for the use of
3 the drone within 48 hours after the use commenced.

4 (b) If the court denies an application for a warrant filed pursuant to
5 subdivision (a)(2) of this section:

6 (1) use of the drone shall cease immediately; and

7 (2) information or evidence gathered through use of the drone shall be
8 destroyed and is inadmissible in any judicial or administrative proceeding.

9 (c) If a law enforcement agency using a drone in an emergency situation
10 pursuant to this section obtains the information sought, the agency shall
11 immediately cease use of the drone.

12 § 4624. NONLAW-ENFORCEMENT USE OF DRONES

13 Any use of drones by any person other than a law enforcement agency shall
14 comply with all Federal Aviation Administration requirements and guidelines.

15 § 4625. REPORTS

16 (a) On or before September 1 of each year, any law enforcement agency
17 that has used a drone within the previous 12 months shall report the following
18 information to the Department of Public Safety:

19 (1) The number of times the agency used a drone within the previous
20 12 months. For each use of a drone, the agency shall report the type of
21 incident involved, the nature of the information collected, and the rationale for

1 ~~deployment of the drone.~~

2 (2) The number of criminal investigations aided and arrests made
3 through use of information gained by the use of drones within the previous
4 12 months, including a description of how the drone aided each investigation
5 or arrest.

6 (3) The number of times a drone collected data on any person, home, or
7 area other than the target of the surveillance within the previous 12 months and
8 the type of data collected in each instance.

9 (4) The cost of the agency's unmanned aerial vehicle program and the
10 program's source of funding.

11 (b) On or before December 1 of each year, the Department of Public Safety
12 shall report the information collected under subsection (a) of this section to the
13 House and Senate Committees on Judiciary and on Government Operations.

14 (c) On or before December 1 of each year, the Administrative Judge shall
15 report to the House and Senate Committees on Judiciary and on Government
16 Operations on the application for and issuance of warrants for the use of drones
17 during the previous 12 months. The report shall include:

18 (1) the number of applications for warrants authorizing the use of drones
19 during the previous 12 months and the number of applications for warrants
20 granted and denied, including any extensions applied for, granted, or denied;

21 (2) the period of time for which drone use was authorized by each

1 ~~warrant, including any extensions:~~

2 ~~(3) the alleged criminal conduct that was the subject of the warrant; and~~

3 ~~(4) the law enforcement agency that applied for the warrant; and~~

4 ~~(5) the number of convictions obtained in cases where information was~~

5 ~~gained by the use of drones within the previous 12 months and the offenses for~~
6 ~~which the convictions were obtained.~~

7 Sec. 4. 23 V.S.A. § 1607a is added to read:

8 § 1607a. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

9 (a) Definitions. As used in this section and section 1608 of this title:

10 (1) “Automated license plate recognition system” or “ALPR system”

11 means a system:

12 (A) of one or more mobile or fixed high-speed cameras combined

13 with computer algorithms that convert images of license plates into

14 computer-readable files of license plate numbers; and

15 (B) onto which license plate data from Department of Motor

16 Vehicles, National Crime Information Center, and Department of Public Safety

17 alert databases are downloaded, for purposes of generating an alert when a

18 captured license plate number matches a number from an alert database.

19 (2) “Captured plate data” means any data captured by or derived from

20 an ALPR system, including a photograph of a license plate, a license plate

1 ~~number, GPS coordinates of the location of a license plate, and the date and~~
2 ~~time that an ALPR system captured data relating to a license plate.~~

3 (3) "Department" means the Department of Public Safety.

4 (4) "Law enforcement officer" means a State Police officer, municipal
5 police officer, motor vehicle inspector, Capitol Police officer, constable,
6 sheriff, or deputy sheriff, who is certified by the Vermont Criminal Justice
7 Training Council as having satisfactorily completed the approved training
8 programs required to meet the minimum training standards applicable to that
9 person under 20 V.S.A. § 2358.

10 (5) "Legitimate law enforcement purpose" means:

11 (A) detection, investigation, analysis, or enforcement of a crime,
12 traffic violation, or parking violation;

13 (B) operation of AMBER alerts; or

14 (C) missing or endangered person searches.

15 (6) "Vermont law enforcement agency" means:

16 (A) the Department of Public Safety;

17 (B) a municipal police department;

18 (C) a sheriff's department;

19 (D) the Office of the Attorney General;

20 (E) a State's Attorney's office;

21 (F) the Capitol Police Department;

1 ~~(C) the Department of Motor Vehicles.~~

2 (7) "Warrant" means a warrant issued pursuant to Rule 41 of the
3 Vermont of Federal Rules of Criminal Procedure.

4 (b) Restrictions on use of ALPR systems, ALPR database content.

5 (1) A person shall not operate an ALPR system in Vermont unless he or
6 she is a law enforcement officer and operates the system for a legitimate law
7 enforcement purpose. A law enforcement officer shall not operate an ALPR
8 system in Vermont unless:

9 (A) the officer is certified in ALPR operation by the Vermont
10 Criminal Justice Training Council; and

11 (B) the system transmits captured plate data to the Department within
12 24 hours of its collection, and does not retain any captured plate data after its
13 transfer to the Department.

14 (2) A Department supervisor must approve the entry of any data onto
15 the statewide ALPR server other than data collected by an ALPR system itself,
16 and any such entry shall be for a legitimate law enforcement purpose.

17 (c) Confidentiality of captured plate data; exceptions.

18 (1) Except as provided in this subsection, captured plate data are exempt
19 from public inspection and copying under the Public Records Act and shall be
20 kept confidential. Captured plate data shall not be subject to subpoena or to
21 discovery or be admissible in evidence in any private litigation.

1 ~~(2) If the Department retains captured plate data pursuant to a warrant, it~~
2 may disclose the data to a law enforcement agency, but only pursuant to the
3 terms of the warrant. A receiving agency may use the data or further disclose
4 the data, but only for a legitimate law enforcement purpose.

5 (3)(A) Upon request, the Department may disclose captured plate data
6 retained under subdivision (d)(2)(B) of this section to an out-of-state or
7 Vermont law enforcement agency, but only if disclosure is for a legitimate law
8 enforcement purpose. A law enforcement agency receiving such data may use
9 or further disclose the data, but only for a legitimate law enforcement purpose.

10 (B) Any requests for captured plate data from the Department under
11 this subdivision (3) shall be in writing and include the name of the requester,
12 the law enforcement agency the requester is employed by, and the law
13 enforcement agency's Originating Agency Identifier number. The request
14 shall describe the legitimate law enforcement purpose for which the data are to
15 be used. The Department shall retain all requests and record in writing the
16 outcome of the request and any information that was provided to the requester
17 or, if applicable, its reasons for denying or not fulfilling the request. The
18 Department shall retain the information described in this subdivision (c)(3)(B)
19 for at least three years.

20 (4) The Department shall not release captured plate data to an
21 out-of-state or Vermont law enforcement agency unless the agency has

1 ~~accepted the terms of a user agreement with the Department. The user~~
2 agreement shall specify the confidentiality, permitted uses, and authorized
3 retention periods of the data in accordance with the provisions of this section.

4 (d) Limitation on retention of captured plate data; exceptions.

5 (1) Except as authorized in this subsection or section 1608 of this title, a
6 person shall not retain captured plate data for more than 24 hours. Captured
7 plate data not authorized to be retained shall be destroyed.

8 (2) The Department may retain captured plate data for more than 24
9 hours if, prior to expiration of the 24-hour period after it receives the data:

10 (A) it receives a warrant for the data; or

11 (B) a comparison of the data with an alert database shows that the
12 data are relevant to:

13 (i) the commission of a crime, traffic violation, or parking
14 violation, or an ongoing investigation thereof;

15 (ii) locating or identifying a fugitive; or

16 (iii) locating a missing or endangered person.

17 (3) Captured plate data retained by the Department or received by a law
18 enforcement agency under this section shall be destroyed no later than
19 18 months after the data's receipt by the Department or agency, unless this
20 period is extended under a warrant or pursuant to a preservation order under
21 section 1608 of this title.

1 ~~(e) Applicability. This section shall not apply to plate data captured~~
2 ~~outside Vermont and received by a Vermont law enforcement agency from~~
3 ~~jurisdictions outside Vermont. Such data shall be retained and used only for a~~
4 ~~legitimate law enforcement purpose, and in accordance with any requirements~~
5 ~~of the sending agency.~~

6 (f) Penalties.

7 (1) A person who knowingly uses an ALPR system or captured plate
8 data in violation of this section or who knowingly violates the confidentiality
9 provisions of this section shall be fined not more than \$1,000.00 or imprisoned
10 not more than two years, or both.

11 (2) A person who knowingly retains captured plate data beyond the time
12 limits established under this section and section 1608 of this title shall be fined
13 not more than \$500.00.

14 (g) Reports.

15 (1) The Department shall establish a review process to ensure that
16 information obtained through use of ALPR systems is used only for the
17 purposes permitted under this section. The Department shall report the results
18 of this review annually on or before January 15 to the Senate and House
19 Committees on Judiciary. The report shall contain the following information
20 based on prior calendar year data:

1 ~~(A) the total number of ALPR units being operated in the State and~~
2 ~~the number of units submitting data to the statewide ALPR database;~~

3 ~~(B) the total number of ALPR readings each agency submitted to the~~
4 ~~statewide ALPR database;~~

5 ~~(C) the 12-month cumulative number of ALPR readings retained on~~
6 ~~the statewide ALPR database for more than 24 hours;~~

7 ~~(D) the total number of requests made for ALPR data;~~

8 ~~(E) the total number of requests that resulted in release of~~
9 ~~information from the statewide ALPR database;~~

10 ~~(F) the total number of out-of-state requests; and~~

11 ~~(G) the total number of out-of-state requests that resulted in release~~
12 ~~of information from the statewide ALPR database.~~

13 ~~(2) The Department may adopt rules to implement this section.~~

14 Sec. 5. 23 V.S.A. § 1608 is amended to read:

15 § 1608. PRESERVATION OF DATA

16 (a) Preservation request.

17 (1) A law enforcement agency ~~or the Department of Motor Vehicles~~
18 may apply to the Criminal Division of the Superior Court for an extension of
19 up to 90 days of the 18-month retention period established under subdivision
20 ~~1607(d)(2)~~ 1607a(d)(3) of this title if the agency ~~or Department~~ offers specific
21 and articulable facts showing that there are reasonable grounds to believe that

1 ~~the captured plate data are relevant and material to an ongoing criminal or~~
2 missing persons investigation or to a pending court or Judicial Bureau
3 proceeding. Requests for additional 90-day extensions or for longer periods
4 may be made to the Superior Court subject to the same standards applicable to
5 an initial extension request under this subdivision.

6 (2) A ~~governmental entity~~ law enforcement agency making a
7 preservation request under this section shall submit an affidavit stating:

8 (A) the particular camera or cameras for which captured plate data
9 must be preserved or the particular license plate for which captured plate data
10 must be preserved; and

11 (B) the date or dates and time frames for which captured plate data
12 must be preserved.

13 ~~(b) Captured plate data shall be destroyed on the schedule specified in~~
14 ~~section 1607 of this title if the preservation request is denied or 14 days after~~
15 ~~the denial, whichever is later. After the denial of a preservation order and the~~
16 ~~expiration or waiver of all appeal rights or denial on any appeal, captured plate~~
17 ~~data shall be destroyed on the schedule specified in section 1607a of this title.~~

18 Sec. 6. APPLICABILITY OF ACT TO EXISTING DATA

19 Secs. 4–5 of this act shall apply to all captured plate data collected by
20 ALPR systems operated in Vermont that exists as of July 1, 2015, whether the
21 data were collected before or after that date.

1 ~~Sec. 7. EFFECTIVE DATE~~

2 ~~This act shall take effect on July 1, 2015.~~

Sec. 1. 2013 Acts and Resolves No. 69, Sec. 3 is amended to read:

Sec. 3. EFFECTIVE DATE AND SUNSET

(a) This act shall take effect on July 1, 2013.

(b) Secs. 1–2 of this act, 23 V.S.A. §§ 1607 and 1608, shall be repealed on July 1, 2015 2016.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.