LEGISLATIVE BILL REVIEW FORM: 2016

Bill Number: S.155   **Name of Bill:**   An Act Relating to Privacy Protection

Agency/Dept: DPS / VSP   **Author of Bill Review:**   Lt. Kevin Lane

Date of Bill Review: Jan. 16, 2016   **Related Bills and Key Players:**   Senator Sears / Senator Ashe / Senator Benning

Status of Bill: (check one)

__XXX__   **Upon Introduction**   _____   **As passed by 1ˢᵗ body**   _____   **As passed by both bodies**

Recommended Position:

    Support   **Oppose**   **Remain Neutral**   __XXX__   **Support with modifications identified in # 8 below**

_____   _____   _____   _____

Analysis of Bill

1. **Summary of bill and issue it addresses.**   This bill proposes to enhance privacy protection in three ways. It establishes a private right of action for a person whose protected health care information was improperly disclosed. Second, it establishes regulation on law enforcement's use of drones or also known as unmanned aerial vehicles. It would require law enforcement to obtain a search warrant before or after a drone was used. Lastly, it addresses confidentiality of data in the Automated License Plate Recognition (ALPR) system. It maintains the current retention period of 18 months but opens the release of ALPR data to people beyond law enforcement. It also makes a distinction for commercial motor vehicles and allows them to maintain their own ALPR database.

2. **Is there a need for this bill?**   Yes. The current ALPR statue, Title 23VSA1607/1608 sunsets this year, July 1, 2016. There are no state regulations on drone usage in the state of Vermont.

3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?** There would be some financial impact to the Department of Public Safety. If DPS started a drone program, the extra time and effort to have detectives apply for search warrants equates to more detectives needed to investigate a case and longer working hours and overtime. The bill would also require DPS to complete annual reporting of all law enforcement drone use. With regard to the ALPR regulations, I forecast a significant increase of ALPR requests made by the public to DPS. It will be a significant amount of time and focus to research and provide this information back to requestors. The bill also requires an annual report but it would now encompass two ALPR databases, DPS and DMV. This again would require an increased amount of working hours and overtime.

   The bill also does not adequately address private citizens using drones. It only regulates law enforcement drone usage. It references other than law enforcement, any other person shall follow the FAA regulations. These regulations are not likely to be followed by the public or enforced. In regard to the ALPR I believe law enforcement will respond positively to the retention period staying at 18 months

but it also opens the ALPR database to other people outside of law enforcement. I think this is problematic.

4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** I don't know what the Dept. of Health's view on private rights to action if health care information is improperly disclosed. The other two section most greatly effect law enforcement. I do not think there will be support in law enforcement for the regulations (search warrant) for drone usage or having the ALPR database be open to the public.

5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *Department of Health, Federal Aviation Administration (FAA) and the Vermont Judiciary.*

6. **Other Stakeholders:**

    6.1 Who else is likely to support the proposal and why? *American Civil Liberties Union (ACLU)*

    6.2 Who else is likely to oppose the proposal and why? *Law Enforcement, Search and Rescue groups and Fire Departments*

7. **Rationale for recommendation:** Explained above

8. **Specific modifications that would be needed to recommend support of this bill***:*
    - Make specific Vermont regulations for drone use by citizens and law enforcement
    - Recommend to increase the proposed penalty for criminal usage of drones
    - Recommend there is no requirement for a search warrant for drone usage; before or after
    - Wording is very restrictive in the section of; collects data other than target
    - Recommend law enforcement not have to complete an annual report on drone usage
    - Recommend ALPR data should only be released to law enforcement
    - Recommend data should not be turned over to "a person" with a "legitimate law enforcement purpose"
    - Recommend ALPR data should not be limited to 18 month on out-of-state ALPR data, if legally obtained it should be admissible
    - Recommend in the section, Under Preservation of Data; "his or her representative" should be defined

9. **Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many?** No

Secretary/Commissioner has reviewed this document

Date: 2/12/16