

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: S.18 Name of Bill: An act relating to privacy protection (privacy; electronic communications; medical records; drones; automated license plate readers)

Agency/Dept: DEMHS/DPS Author of Bill Review: J. Flynn

Date of Bill Review: 01/16/2015 Related Bills and Key Players: Senators' Ashe and Benning

Status of Bill: (check one)

☒ Upon Introduction ☐ As passed by 1st body ☐ As passed by both bodies

Recommended Position:

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

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

The bill states the purpose being to "propose a number of measures intended to enhance privacy protection" and addresses such things as:

- (1) the release of certain customer records (electronic/digital) to a government office or public official
- (2) rights of personal action for improper disclosure of health care information by another
- (3) regulations for the use of drones
- (4) restrict data captured by an ALPR to be kept confidential and to limit data from being retained for more than 24 hours, unless certain exemptions apply.

2. Is there a need for this bill? *Please explain why or why not.*

*Speaking only to the section on drones. It seems to be a solution in search of a problem.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

Page 13 (of 25) defines "Law Enforcement Agency" among others, as The Department of Public Safety, as a whole. It does not recognize there are different divisions within the department, which are not LE per se, all with differing missions. DPS being defined in its entirety as LE restricts any possible use of a drone, by all divisions of DPS, to those very tight circumstances allowable for LE use only. Within DPS there may well be reasonable scenarios where the DEMHS use of a drone to obtain a damage assessment/situational awareness (for SEOC) could be a critical asset. There may also be times, working with FEMA, when the use of a drone would allow aerial (photo) access to inventory debris fields, remote damage and other circumstances that would aid VT in making a better application to FEMA for public assistance reimbursement and facilitate a better recovery, to name just a few.

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?

AOT and DEC, working with the UVM Spatial Analysis Laboratory, have availed themselves of the use of drones for testing aerial reconnaissance in project delivery and possibly mapping. I believe they wish as a state government entity to continue to be allowed to do so. Oddly, the wording of the bill (§ 4624) seems to allow AOT and DEC to continue those innocuous uses, however similar innocuous uses would not be allowed by DEMHS if a blanket definition of LE is assigned to all divisions of DPS.

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5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)

While not authorized to speak on behalf of AOT or DEC it would be reasonable to expect they will watch this bill closely to be certain it's passage wouldn't ultimately impede future uses of drones as they have already undertaken, albeit to a limited degree so far. As worded it would seem their use would fall under § 4624. NONLAW-ENFORCEMENT USE OF DRONES.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

ACLU with concern over privacy rights.
Other privacy rights advocates.

6.2 Who else is likely to oppose the proposal and why?

I would think the LE community might have concern over the strict limitations and requirements for use of a drone, especially (in my opinion) under the definition of Emergency, as well as opinions on the ALPR section.

7. Rationale for recommendation: *Justify recommendation stated above.*

There are numerous non-law enforcement uses of drones that have no nefarious intent. The inability for DEMHS (and DPS as a whole for that matter) to learn more about drones and possibly deploy them for such types of use would be unfortunate.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

Page 13, line 3. – Change from The Department of Public Safety to The Vermont State Police.

(It should be clearly stated that the intent of doing so is to allow DEMHS to fall under § 4624. NONLAW-ENFORCEMENT USE OF DRONES)

9. Gubernatorial appointments to board or commission?

I would not think this would create a board or commission.



Secretary/Commissioner has reviewed this document

Date: 3/11/15