

Chapter 82

2020 Regular Session

Subject Data practices omnibus policy bill

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Overview

This is the data practices policy omnibus bill. It contains provisions related to the regulation of law enforcement agency use of unmanned aerial vehicles (“UAVs” or drones), publication of decisions by the Minnesota Court of Appeals, requiring search warrants for collecting information from electronic communications systems, clarifying the requirements related to electronic location tracking warrants, and clarifying the requirements for collecting certain stored electronic communications.

Summary

Section	Description
1	<p>Public benefit data.</p> <p>Adds a cross-reference to the act’s proposed drone regulation. This allows law enforcement to disclose not-public drone data as necessary to aid law enforcement or promote public safety.</p>
2	<p>Unmanned aerial vehicles.</p> <p>Adds a cross-reference to the act’s proposed drone regulation into Chapter 13’s comprehensive law enforcement data section. This is a technical cross-reference for convenience.</p>
3	<p>Decisions.</p> <p>Removes the restrictions on the types of cases the Minnesota Court of Appeals can designate as being a published decision. Opinions of the Minnesota Court of Appeals that are identified as “published” create precedent that is binding on the district courts. Unpublished opinions are currently available in a written format, but may not be cited as precedent in cases involving different parties, facts, or both. Current law restricts the cases that the court of appeals may identify as being published.</p>
4	<p>Search warrant required for electronic communication information.</p> <p>Subd. 1. Definitions. Defines key terms.</p>

Section Description

Subd. 2. Warrant required; exceptions. Requires a government entity to obtain a search warrant in order to require disclosure of ECI. The warrant requirement does not apply if the government entity has “valid consent” or if certain “exigent circumstances” exist.

Subd. 3. Notice to subject. Requires a government entity that accesses ECI to provide notice to the “subject of the information” pursuant to subdivision 4 and the general service of search warrant requirement.

Subd. 4. Notice; temporary nondisclosure of search warrant. Requires the courts to notify individuals named in an ECI warrant, but allows the warrant to remain confidential (so that no notice will be given) in certain circumstances. Even if an ECI warrant remains confidential, however, it must be made public if the evidence from the warrant is used in a criminal proceeding.

Subd. 5. Reports. Requires reporting by the state court administrator on ECI warrants issued by the courts.

5 Use of unmanned aerial vehicles.

Subd. 1. Application; definitions. Provides that this section governs UAV data collected, created, or maintained by a law enforcement agency only. For government entities other than a law enforcement agency, the general provisions of Chapter 13 control treatment of any UAV data. Also defines key terms.

Subd. 2. Use of unmanned aerial vehicles limited. Requires a law enforcement agency to get a court-issued search warrant in order to operate a UAV, unless one of the exceptions in subdivision 3 applies.

Subd. 3. Authorized use. Allows a law enforcement agency to operate a UAV *without* a search warrant in the nine enumerated circumstances.

Subd. 4. Limitations on use. Sets out certain general restrictions on law enforcement use of drones.

Subd. 5. Documentation required. Requires a law enforcement agency to create detailed documentation each time it uses a UAV.

Subd. 6. Data classification; retention. Classifies data collected by a UAV as private or nonpublic, subject to the enumerated provisions in paragraph (a). Exempts UAV data collection by law enforcement from chapter 13’s Tennessee warning provision. Requires UAV data to be deleted within seven days unless the data is part of an ongoing criminal investigation.

Section Description

Subd. 7. Evidence. Provides that data collected in violation of this section may not be used as evidence in a proceeding against the data's subject.

Subd. 8. Remedies. Provides a private right of action for individuals aggrieved by a violation of this section. This private right of action is in addition to the other civil and administrative remedies available under Chapter 13.

Subd. 9. Public comment. Requires a law enforcement agency to provide an opportunity for public comment before it purchases or uses a UAV. Directs the agency to accept comments submitted electronically or by mail. Requires the governing body with jurisdiction over the budget of a local law enforcement agency to provide an opportunity for public comment at a regularly scheduled meeting.

Subd. 10. Written policies required. Requires a law enforcement agency that uses a UAV to establish a policy governing UAV usage by February 15, 2021, and to make that policy publicly available.

Subd. 11. Notice; disclosure of warrant. Requires the courts to notify individuals who have been the subject of a UAV warrant, but allows the warrant to remain confidential (so that no notice will be given) in certain circumstances. Even if a UAV warrant remains confidential, however, it must be made public if the evidence from the warrant is used in a criminal proceeding.

Subd. 12. Reporting. Requires reporting by law enforcement on UAV use. Requires reporting by the state court administrator on UAV warrants.

6 Application and orders.

Amends the statute concerning the sealing and disclosure of a warrant for wire, electronic, or oral communications to distinguish and exempt location-tracking warrants from these general requirements.

7 Exceptions.

Adds a new exception within an existing section of chapter 626A that provides for penalties when a person unlawfully accesses stored communications. This provides that actions authorized by section 4 of the act would not be prohibited under chapter 626A.

8 Exceptions.

Adds a new exception within an existing section of chapter 626A that prohibits certain disclosures of the contents of electronic communications. This provides that actions authorized by section 4 of the act would not be prohibited under chapter 626A.

Section	Description
9	Records concerning electronic communication service or remote computing service. In chapter 626A, removes cross-references to parts of existing law that are repealed in section 18 of the act.
10	Requirements for court order. In chapter 626A, removes cross-references to parts of existing law that are repealed in section 18 of the act.
11	No cause of action against a provider disclosing certain information. Adds a new reference within an existing subdivision of a section of chapter 626A that shields an electronic communication service provider from liability for disclosing information to a governmental entity. This provides that service providers are also shielded from liability for complying with a warrant issued under section 4 of the act.
12	Payment. In chapter 626A, removes cross-references to parts of existing law that are repealed in section 18 of the act.
13	Nondisclosure of existence of pen register, trap and trace device, or mobile tracking device. Amends the statute concerning the sealing of a warrant for a pen register, trap-and-trace device, or mobile tracking device to distinguish and exempt location-tracking warrants from these requirements.
14	Definitions. Defines “unique identifier” as any numeric or alphanumeric string that is associated with a single entity or account within a given electronic communication application or service.
15	Tracking warrant required for location information. Permits the use of a tracking warrant or the applicable exceptions to obtain information on a unique identifier.
16	Time period and extensions. Makes a conforming change based on changes to the law governing location tracking warrants.
17	Report concerning collection of location information. Makes a conforming change based on changes to the law governing location tracking warrants.

Section	Description
18	Repealer. Repeals several provisions in chapter 626A.



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