

BILL ANALYSIS

C.S.H.B. 3929

By: Fletcher

Emerging Issues In Texas Law Enforcement, Select
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that state law enforcement has been using automatic license plate readers for an extended period of time, but these parties are concerned that current state law does not adequately restrict the use of the data collected from such a device. C.S.H.B. 3929 seeks to remedy this situation by placing limits on the use of collected data from an automatic license plate reader.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Public Safety in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 3929 amends the Government Code to authorize a law enforcement agency to use images and all related captured plate data produced by an automatic license plate reader system for the law enforcement purposes listed in the bill. The bill defines "automatic license plate reader system" as a system of one or more mobile or fixed high-speed cameras used in combination with computer algorithms to convert an image of a license plate into computer-readable data. "Captured plate data" is defined as global positioning system coordinates, dates, times, photographs, license plate numbers, and all other data collected by an automatic license plate reader system. "Law enforcement agency" is defined as an agency of the state or an agency of a political subdivision of the state authorized to employ peace officers. The bill makes it a Class A misdemeanor for law enforcement personnel to use an image or any related captured plate data produced by an automatic license plate reader system for anything other than a valid law enforcement purpose listed in the bill.

C.S.H.B. 3929 requires the Department of Public Safety (DPS) and each law enforcement agency that uses an automatic license plate reader system to establish by rule or policy an automatic license plate reader records retention database to retain captured plate data. The bill requires DPS and each law enforcement agency that uses an automatic license plate reader system to adopt rules or policies governing the use of the system and requires each law enforcement agency that uses a license plate reader system, not later than January 31 of each year, to submit a report as specified for the preceding calendar year to DPS regarding the total number of system units that are used by the law enforcement agency, the number of system readings made by the law enforcement agency, and a list of audits completed by the law enforcement agency. The bill requires DPS, not later than September 1 of each year, to submit a report for the preceding calendar year to the legislature that includes the number of system readings retained in the database; the number of requests, including out-of-state and

federal requests, for captured plate data made to DPS and the number of such requests that resulted in a release of information; any data breach or unauthorized use of the database; a list of audits completed by DPS and each law enforcement agency reporting to DPS; and a summary of the information contained in the reports submitted to DPS by each law enforcement agency that uses a license plate reader system. The bill makes captured plate data confidential and exempts such data from disclosure under state public information law. The bill establishes that its provisions do not apply to cameras used to enforce a civil penalty or traffic offenses and do not restrict or prohibit the use of a camera of any type by any entity for the investigation or enforcement of a civil action, a civil penalty, a civil traffic related offense, or a criminal prosecution arising from non-payment of a civil penalty or civil action.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL TO SUBSTITUTE

While C.S.H.B. 3929 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0094 to read as follows:

Sec. 411.0094. AUTOMATIC LICENSE PLATE READER SYSTEM.

(a) In this section:

(1)"Automatic license plate reader system" means a system of one or more mobile or fixed high-speed cameras used in combination with computer algorithms to convert an image of a license plate into computer-readable data.

(2)"Captured plate data" means global positioning system coordinates, dates and times, photographs, license plate numbers, and any other data collected by an automatic license plate reader system.

(b)A law enforcement agency may use images and any related captured plate data produced by an automatic license plate reader system **only** for the following law enforcement purposes:

(1)detecting or investigating a criminal offense;

(2)detecting or investigating a violation of a traffic law;

(3)investigating a report of a missing person; or

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0094 to read as follows:

Sec. 411.0094. AUTOMATIC LICENSE PLATE READER SYSTEM.

(a) In this section:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers to enforce criminal laws.

(2)"Automatic license plate reader system" means a system of one or more mobile or fixed high-speed cameras used in combination with computer algorithms to convert an image of a license plate into computer-readable data.

(3)"Captured plate data" means global positioning system coordinates, dates and times, photographs, license plate numbers, and all other data collected by an automatic license plate reader system.

(b)A law enforcement agency may use images and all related captured plate data produced by an automatic license plate reader system for the following law enforcement purposes:

(1)detecting or investigating a criminal offense;

(2) detecting or investigating a **criminal violation of a traffic law or vehicle compliance**;

(3)investigating a report of a missing person; or

(4) investigating threats related to terrorism.

(c) The department by rule shall establish an automatic license plate reader system database to retain captured plate data that is being used for a law enforcement purpose listed under Subsection (b)

(d) The department and each law enforcement agency that uses an automatic license plate reader system shall adopt rules governing the use of the system, including rules:

- (1) governing which law enforcement personnel may search captured plate data;
- (2) establishing an audit process to ensure that captured plate data is used only for the law enforcement purposes described by Subsection (b); and
- (3) establishing procedures and safeguards to ensure that law enforcement personnel with access to the automatic license plate reader database are adequately screened and trained.

(e) Not later than January 1 of each year, each law enforcement agency that uses a license plate reader system shall submit a report to the department regarding:

- (1) the total number of automatic license plate reader system units that are used by the law enforcement agency;
- (2) the number of automatic license plate reader system readings made by the law enforcement agency; and
- (3) a list of audits completed by the law enforcement agency.

(f) Not later than March 1 of each year, the department shall submit a report to the legislature that includes:

- (1) the number of automatic license plate reader system readings retained in the automatic license plate reader system database;
- (2) the number of requests for captured plate data made to the department, including:
 - (A) the total number of requests and the

(4) investigating threats related to terrorism.
(5) in conjunction with an administrative hearing by a law enforcement agency under the law enforcement agency's administrative rules.

(6) crime analysis; or

(7) any other legitimate law enforcement purpose.

(c) The department and each law enforcement agency that uses an automatic license plate reader system by rule or policy shall establish an automatic license plate reader records retention database to retain captured plate data.

(d) The department and each law enforcement agency that uses an automatic license plate reader system shall adopt rules or policies governing the use of the system, including rules:

- (1) governing which law enforcement personnel may search captured plate data; (2) establishing an audit process to ensure that captured plate data is used only for the law enforcement purposes described by Subsection (b); and
- (3) establishing procedures and safeguards to ensure that law enforcement personnel with access to the automatic license plate reader database are adequately screened and trained.

(e) Not later than January 31 of each year, each law enforcement agency that uses a license plate reader system shall submit a report for the preceding calendar year to the department regarding:

- (1) the total number of automatic license plate reader system units that are used by the law enforcement agency;
- (2) the number of automatic license plate reader system readings made by the law enforcement agency; and
- (3) a list of audits completed by the law enforcement agency.

(f) Not later than September 1 of each year, the department shall submit a report for the preceding calendar year to the legislature that includes:

- (1) the number of automatic license plate reader system readings retained in the automatic license plate reader system database;
- (2) the number of requests for captured plate data made to the department, including:
 - (A) the total number of requests and the

number of requests that resulted in a release of information;

(B) the total number of out-of-state requests and the number of out-of-state requests that resulted in a release of information; and

(C)the total number of federal requests and the number of federal requests that resulted in a release of information;

(3)any data breach or unauthorized use of the automatic license plate reader system database;

(4)a list of audits completed by the department and each law enforcement agency reporting to the department; and

(5)a summary of the information contained in the reports submitted to the department under Subsection (e).

(g)Captured plate data is confidential and not subject to disclosure under Chapter 552.

(h) A person commits an offense if the person uses an image or any related captured plate data produced by an automatic license plate reader system for a purpose that is not listed in Subsection (b). An offense under this subsection is a Class A misdemeanor.

number of requests that resulted in a release of information;

(B) the total number of out-of-state requests and the number of out-of-state requests that resulted in a release of information; and

(C)the total number of federal requests and the number of federal requests that resulted in a release of information;

(3)any data breach or unauthorized use of the automatic license plate reader system database;

(4)a list of audits completed by the department and each law enforcement agency reporting to the department; and

(5)a summary of the information contained in the reports submitted to the department under Subsection (e).

(g) Captured plate data is confidential and not subject to disclosure under Chapter 552.

(h) Law enforcement personnel, as defined in Subsection (d)(1), commits an offense if that person uses an image or any related captured plate data produced by an automatic license plate reader system for anything other than a valid law enforcement purpose as listed in Subsection (b). An offense under this subsection is a Class A misdemeanor.

(i) This act does not apply to cameras used to enforce a civil penalty or traffic offenses nor does it restrict or prohibit the use of a camera of any type, including those described in Subsection (a), by any entity, including law enforcement, for the investigation or enforcement of civil action, civil penalty, a civil traffic related offense or a criminal prosecution arising from non-payment of a civil penalty or civil action.

SECTION 2. This Act takes effect September 1, 2015.

SECTION 2. Same as introduced version.

