



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB0243

Introduced 1/31/2019, by Sen. Antonio Muñoz

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 140/7.5

Creates the Automated License Plate Recognition System Data Act. Provides that a law enforcement agency may use recorded automated license plate recognition system (ALPR) data and historical ALPR system data only for a legitimate law enforcement purpose. Provides that ALPR system data collected by law enforcement and historical ALPR system data collected by law enforcement may not be used, shared, sold, traded, or exchanged for any other purpose. Requires law enforcement agencies using an automated license plate recognition system to adopt a policy governing use of the system; adopt a privacy policy to ensure that ALPR system data and historical ALPR system data is not used or shared in violation of this Act; adopt audit procedures relating to use of ALPR system data and historical ALPR system data; and adopt and periodically update a comprehensive training program for agency employees who use or have access to ALPR system data and procedures to adhere to policies and procedures governing use of ALPR system data or historical ALPR system data. Provides that a State or local law enforcement agency may retain ALPR system data for 5 years. Provides that after 5 years, the State or local law enforcement agency must create an internal record showing why data older than 5 years was accessed, and attach a case name and number, the name of the officer that accessed the data, the date, and an explanation for why the data was accessed. Prohibits admission of data that is used in violation of the Act in a court or administrative proceeding. Prohibits less restrictive local regulation, including by home rule units. Defines terms. Amends the Freedom of Information Act to exempt ALPR system and historical ALPR system data from disclosure under the Act.

LRB101 07178 TAE 52216 b

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Automated License Plate Recognition System Data Act.

6 Section 5. Definitions. For the purpose of this Act:

7 "ALPR system data" means data packets representing
8 interpretation by ALPR systems of recorded vehicle license
9 plates affixed to vehicles in the field of view of ALPR system
10 cameras, with associated global positioning system
11 coordinates, and time and date stamps associated with the
12 recording of the data.

13 "Automated license plate recognition system" or "ALPR
14 system" means a system of one or more mobile, portable, or
15 fixed video cameras using computer algorithms to convert images
16 of license plates into automated computer-recognized
17 searchable alphanumeric data, including associated servers,
18 data normalization technologies, and similar technologies.

19 "Historical ALPR system data" means data recorded by ALPR
20 systems that are stored in an authorized ALPR system platform.

21 "Law enforcement agency" means an agency of this State,
22 another state within the United States, a unit of local
23 government, or a political subdivision of any of the preceding,

1 that is vested by law or ordinance with the duty to maintain
2 public order or to enforce criminal laws and ordinances.

3 "Legitimate law enforcement purpose" means for the purpose
4 of the investigation of a criminal offense or violation of a
5 federal, State, or local law or ordinance by a law enforcement
6 agency.

7 "Secured area" means an area, enclosed by clear boundaries,
8 to which access is limited and not open to the public and entry
9 is obtainable only through specific access-control points.

10 Section 10. ALPR system data and historical ALPR system
11 data protections.

12 (a) A law enforcement agency may use recorded ALPR system
13 data and historical ALPR system data only for a legitimate law
14 enforcement purpose. ALPR system data collected by law
15 enforcement and historical ALPR system data collected by law
16 enforcement may not be used, shared, sold, traded, or exchanged
17 for any other purpose.

18 (b) ALPR system data and historical ALPR system data shall
19 be considered and treated by a law enforcement agency as
20 sensitive data, but the data is not in the same category as
21 personally identifying information.

22 (c) ALPR system data and historical ALPR system data are
23 not subject to disclosure under the Freedom of Information Act.

24 (d) This Act does not apply to automated license plate
25 recognition systems or similar systems:

1 (1) used for electronic toll collection and
2 enforcement;

3 (2) used in government buildings and other locations
4 for security purposes or controlling access to a secured
5 area;

6 (3) used for private sector activities; or

7 (4) used for any purpose for which motor vehicle
8 registration data may be accessed under 18 U.S.C. 2721.

9 Section 15. Use and privacy policy. Any law enforcement
10 agency that uses automated license plate recognition systems
11 shall:

12 (1) adopt a policy governing use of the system;

13 (2) adopt a privacy policy to ensure strict access and
14 control of the data so that ALPR system data and historical
15 ALPR system data are not used or shared in violation of
16 this Act;

17 (3) adopt audit procedures relating to use of ALPR
18 system data and historical ALPR system data; and

19 (4) adopt and periodically update a comprehensive
20 training program, for agency employees who use or have
21 access to ALPR system data and historical ALPR system data,
22 that fully trains the employees on safeguards in use of
23 ALPR system data or historical ALPR system data and
24 procedures to adhere to policies and procedures governing
25 use of ALPR system data or historical ALPR system data.

1 Section 20. ALPR system data retention. A State or local
2 law enforcement agency may retain ALPR system data for 5 years.
3 After 5 years, the State or local law enforcement agency must
4 create an internal record showing why data older than 5 years
5 was accessed, and attach a case name and number, the name of
6 the officer that accessed the data, the date, and an
7 explanation for why the data was accessed.

8 Section 25. Admissibility. If a court finds by a
9 preponderance of the evidence that ALPR system data or
10 historical ALPR system data was gathered, stored, used, or
11 disclosed in violation of this Act, then that information shall
12 be presumed to be inadmissible in any judicial or
13 administrative proceeding. The party seeking admission of the
14 ALPR system data or historical ALPR system data may overcome
15 this presumption by proving the applicability of a judicially
16 recognized exception to the exclusionary rule of the Fourth
17 Amendment to the United States Constitution or Section 6 of
18 Article I of the Illinois Constitution or by a preponderance of
19 the evidence that the law enforcement agency was acting in good
20 faith and reasonably believed that one or more of the
21 exceptions existed at the time that the ALPR system data or
22 historical ALPR system data was gathered, stored, used, or
23 disclosed.

1 Section 30. Home rule and other local regulation. Any home
2 rule unit of local government, any non-home rule municipality,
3 or any non-home rule county within the unincorporated territory
4 of the county may regulate law enforcement agency owned
5 automated license plate recognition systems and the use of ALPR
6 system data collected by law enforcement and historical ALPR
7 system data collected by law enforcement, but that regulation
8 must be no less restrictive than this Act. This Section is a
9 limitation on the concurrent exercise of home rule power under
10 subsection (i) of Section 6 of Article VII of the Illinois
11 Constitution.

12 Section 100. The Freedom of Information Act is amended by
13 changing Section 7.5 as follows:

14 (5 ILCS 140/7.5)

15 Sec. 7.5. Statutory exemptions. To the extent provided for
16 by the statutes referenced below, the following shall be exempt
17 from inspection and copying:

18 (a) All information determined to be confidential
19 under Section 4002 of the Technology Advancement and
20 Development Act.

21 (b) Library circulation and order records identifying
22 library users with specific materials under the Library
23 Records Confidentiality Act.

24 (c) Applications, related documents, and medical

1 records received by the Experimental Organ Transplantation
2 Procedures Board and any and all documents or other records
3 prepared by the Experimental Organ Transplantation
4 Procedures Board or its staff relating to applications it
5 has received.

6 (d) Information and records held by the Department of
7 Public Health and its authorized representatives relating
8 to known or suspected cases of sexually transmissible
9 disease or any information the disclosure of which is
10 restricted under the Illinois Sexually Transmissible
11 Disease Control Act.

12 (e) Information the disclosure of which is exempted
13 under Section 30 of the Radon Industry Licensing Act.

14 (f) Firm performance evaluations under Section 55 of
15 the Architectural, Engineering, and Land Surveying
16 Qualifications Based Selection Act.

17 (g) Information the disclosure of which is restricted
18 and exempted under Section 50 of the Illinois Prepaid
19 Tuition Act.

20 (h) Information the disclosure of which is exempted
21 under the State Officials and Employees Ethics Act, and
22 records of any lawfully created State or local inspector
23 general's office that would be exempt if created or
24 obtained by an Executive Inspector General's office under
25 that Act.

26 (i) Information contained in a local emergency energy

1 plan submitted to a municipality in accordance with a local
2 emergency energy plan ordinance that is adopted under
3 Section 11-21.5-5 of the Illinois Municipal Code.

4 (j) Information and data concerning the distribution
5 of surcharge moneys collected and remitted by carriers
6 under the Emergency Telephone System Act.

7 (k) Law enforcement officer identification information
8 or driver identification information compiled by a law
9 enforcement agency or the Department of Transportation
10 under Section 11-212 of the Illinois Vehicle Code.

11 (l) Records and information provided to a residential
12 health care facility resident sexual assault and death
13 review team or the Executive Council under the Abuse
14 Prevention Review Team Act.

15 (m) Information provided to the predatory lending
16 database created pursuant to Article 3 of the Residential
17 Real Property Disclosure Act, except to the extent
18 authorized under that Article.

19 (n) Defense budgets and petitions for certification of
20 compensation and expenses for court appointed trial
21 counsel as provided under Sections 10 and 15 of the Capital
22 Crimes Litigation Act. This subsection (n) shall apply
23 until the conclusion of the trial of the case, even if the
24 prosecution chooses not to pursue the death penalty prior
25 to trial or sentencing.

26 (o) Information that is prohibited from being

1 disclosed under Section 4 of the Illinois Health and
2 Hazardous Substances Registry Act.

3 (p) Security portions of system safety program plans,
4 investigation reports, surveys, schedules, lists, data, or
5 information compiled, collected, or prepared by or for the
6 Regional Transportation Authority under Section 2.11 of
7 the Regional Transportation Authority Act or the St. Clair
8 County Transit District under the Bi-State Transit Safety
9 Act.

10 (q) Information prohibited from being disclosed by the
11 Personnel Record ~~Records~~ Review Act.

12 (r) Information prohibited from being disclosed by the
13 Illinois School Student Records Act.

14 (s) Information the disclosure of which is restricted
15 under Section 5-108 of the Public Utilities Act.

16 (t) All identified or deidentified health information
17 in the form of health data or medical records contained in,
18 stored in, submitted to, transferred by, or released from
19 the Illinois Health Information Exchange, and identified
20 or deidentified health information in the form of health
21 data and medical records of the Illinois Health Information
22 Exchange in the possession of the Illinois Health
23 Information Exchange Authority due to its administration
24 of the Illinois Health Information Exchange. The terms
25 "identified" and "deidentified" shall be given the same
26 meaning as in the Health Insurance Portability and

1 Accountability Act of 1996, Public Law 104-191, or any
2 subsequent amendments thereto, and any regulations
3 promulgated thereunder.

4 (u) Records and information provided to an independent
5 team of experts under the Developmental Disability and
6 Mental Health Safety Act (also known as Brian's Law).

7 (v) Names and information of people who have applied
8 for or received Firearm Owner's Identification Cards under
9 the Firearm Owners Identification Card Act or applied for
10 or received a concealed carry license under the Firearm
11 Concealed Carry Act, unless otherwise authorized by the
12 Firearm Concealed Carry Act; and databases under the
13 Firearm Concealed Carry Act, records of the Concealed Carry
14 Licensing Review Board under the Firearm Concealed Carry
15 Act, and law enforcement agency objections under the
16 Firearm Concealed Carry Act.

17 (w) Personally identifiable information which is
18 exempted from disclosure under subsection (g) of Section
19 19.1 of the Toll Highway Act.

20 (x) Information which is exempted from disclosure
21 under Section 5-1014.3 of the Counties Code or Section
22 8-11-21 of the Illinois Municipal Code.

23 (y) Confidential information under the Adult
24 Protective Services Act and its predecessor enabling
25 statute, the Elder Abuse and Neglect Act, including
26 information about the identity and administrative finding

1 against any caregiver of a verified and substantiated
2 decision of abuse, neglect, or financial exploitation of an
3 eligible adult maintained in the Registry established
4 under Section 7.5 of the Adult Protective Services Act.

5 (z) Records and information provided to a fatality
6 review team or the Illinois Fatality Review Team Advisory
7 Council under Section 15 of the Adult Protective Services
8 Act.

9 (aa) Information which is exempted from disclosure
10 under Section 2.37 of the Wildlife Code.

11 (bb) Information which is or was prohibited from
12 disclosure by the Juvenile Court Act of 1987.

13 (cc) Recordings made under the Law Enforcement
14 Officer-Worn Body Camera Act, except to the extent
15 authorized under that Act.

16 (dd) Information that is prohibited from being
17 disclosed under Section 45 of the Condominium and Common
18 Interest Community Ombudsperson Act.

19 (ee) Information that is exempted from disclosure
20 under Section 30.1 of the Pharmacy Practice Act.

21 (ff) Information that is exempted from disclosure
22 under the Revised Uniform Unclaimed Property Act.

23 (gg) Information that is prohibited from being
24 disclosed under Section 7-603.5 of the Illinois Vehicle
25 Code.

26 (hh) Records that are exempt from disclosure under

1 Section 1A-16.7 of the Election Code.

2 (ii) Information which is exempted from disclosure
3 under Section 2505-800 of the Department of Revenue Law of
4 the Civil Administrative Code of Illinois.

5 (jj) Information and reports that are required to be
6 submitted to the Department of Labor by registering day and
7 temporary labor service agencies but are exempt from
8 disclosure under subsection (a-1) of Section 45 of the Day
9 and Temporary Labor Services Act.

10 (kk) Information prohibited from disclosure under the
11 Seizure and Forfeiture Reporting Act.

12 (ll) Information the disclosure of which is restricted
13 and exempted under Section 5-30.8 of the Illinois Public
14 Aid Code.

15 (mm) ~~(ll)~~ Records that are exempt from disclosure under
16 Section 4.2 of the Crime Victims Compensation Act.

17 (nn) ~~(ll)~~ Information that is exempt from disclosure
18 under Section 70 of the Higher Education Student Assistance
19 Act.

20 (oo) ALPR system data or historical ALPR system data
21 under the Automated License Plate Recognition System Data
22 Act.

23 (Source: P.A. 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352,
24 eff. 1-1-16; 99-642, eff. 7-28-16; 99-776, eff. 8-12-16;
25 99-863, eff. 8-19-16; 100-20, eff. 7-1-17; 100-22, eff. 1-1-18;
26 100-201, eff. 8-18-17; 100-373, eff. 1-1-18; 100-464, eff.

1 8-28-17; 100-465, eff. 8-31-17; 100-512, eff. 7-1-18; 100-517,
2 eff. 6-1-18; 100-646, eff. 7-27-18; 100-690, eff. 1-1-19;
3 100-863, eff. 8-14-18; 100-887, eff. 8-14-18; revised
4 10-12-18.)