Department of Legislative Services

Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 699 (Senator Shank, *et al.*)
Judicial Proceedings Judiciary

Automatic License Plate Readers and Captured Plate Data - Authorized Uses

This bill specifies the procedures and protocols that a law enforcement agency must follow in connection with the operation of an "automatic license plate reader system" and "captured plate data." The Maryland Coordination and Analysis Center (MCAC), in cooperation with the Maryland Chiefs of Police Association and the Maryland Sheriffs' Association, must develop a model audit policy for access to and use of automatic license plate reader (LPR) data by October 1, 2015.

Fiscal Summary

State Effect: Generally, compliance with the bill's requirements can be handled with the existing budgeted resources of any affected State law enforcement agency and MCAC.

Local Effect: Compliance with the bill's reporting requirements can be handled with the existing budgeted resources of any affected local law enforcement agency, even if those requirements are met manually.

Small Business Effect: Minimal or none.

Analysis

Bill Summary: A law enforcement agency may not use captured plate data unless the agency has a "legitimate law enforcement purpose." An employee of a law enforcement agency who violates the bill's provisions is subject to maximum penalties of imprisonment for one year and/or a fine of $10,000.

The Department of State Police (DSP) and any law enforcement agency using an automatic license plate reader (LPR) system are required to adopt procedures relating to the operation and use of the system. The procedures must include (1) an identification of MCAC or law enforcement agency personnel who are authorized to query captured plate data gathered by an LPR system; (2) an audit process to ensure that information obtained through the use of an LPR system is used only for legitimate law enforcement purposes, including audits of requests made by individual law enforcement agencies or an individual law enforcement officer; and (3) procedures and safeguards to ensure that MCAC staff with access to the LPR database are adequately screened and trained.

Information gathered by an automatic LPR system is not subject to disclosure under the Maryland Public Information Act.

By March 1 of each year beginning in 2016, DSP, in conjunction with MCAC and law enforcement agencies that maintain an LPR database, are required to report to the Senate Judicial Proceedings Committee, the House Judiciary Committee, and the Legislative Policy Committee on the following information based on data from the previous calendar year: (1) the total number of LPR units being operated in the State by law enforcement agencies and the number of LPR units submitting data to MCAC; (2) the number of LPR readings made by a law enforcement agency that maintains an LPR database and the number of readings submitted to MCAC; (3) the number of readings being retained on the database; (4) the number of requests made to MCAC and each law enforcement agency for LPR data, including specified information; (5) any data breaches or unauthorized uses of the database; and (6) a list of audits that were completed by MCAC or a law enforcement agency.

A custodian of records of captured plate data collected by an LPR system must deny inspection of the data. A custodian may only use or share such data in the course of the custodian's duties for purposes authorized under the bill. This prohibition does not apply to an electronic toll collection system or associated transaction system operated by or in conjunction with the Maryland Transportation Authority.

By October 1, 2015, MCAC, in cooperation with the Maryland Chiefs of Police Association and the Maryland Sheriffs' Association, is required to develop a model audit policy for access to and use of LPR data.

An "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 images of license plates into computer-readable data.

"Captured plate data" means the global positioning system coordinates, dates and times, photographs, license plate numbers, and any other data collected by or derived from an LPR system, including active and historical data.

"Legitimate law enforcement purpose" means the investigation, detection, or analysis of a crime or a violation of Maryland's vehicle laws or the operation of terrorist or missing or endangered person searches or alerts.

Current Law: The use and operation of LPRs is not now restricted by law in Maryland.

Under the Freedom of Association and Assembly Protection Act of 2009, a "covert investigation" means an infiltration of or attempt to infiltrate a group or organization in a manner that conceals the identity of the law enforcement agency or the identity of an officer or agent of the law enforcement agency. It does not include the use of plainclothes officers or employees for crowd control and public safety purposes at public events. A law enforcement agency may not conduct a covert investigation of a person, a group, or an organization engaged in First Amendment activities unless the chief or the chief's designee makes a written finding in advance or as soon as is practicable afterwards that the covert investigation is justified because (1) it is based on a reasonable, articulable suspicion that the person, group, or organization is planning or engaged in criminal activity and (2) a less intrusive method of investigation is not likely to yield satisfactory results. Membership or participation in a group or organization engaged in First Amendment activities does not alone establish reasonable, articulable suspicion of criminal activity.

Under provisions of the Transportation Article, after a vehicle owner is notified by the Motor Vehicle Administration (MVA) of the suspension of registration (such as for lapsed insurance on the vehicle), the vehicle owner must surrender all evidences of that registration to MVA. Upon a failure to do so, MVA is required to attempt to recover from the owner the evidences of registration.

Background: LPR technology uses a high-speed camera to automatically detect a vehicle's license plate as it passes the reader mounted either at a fixed location or on a patrol vehicle. The scan is then compared to information in a "hot list," which consists of license plate numbers of wanted vehicles or license plate numbers associated with wanted or missing persons and other specified databases. Once a scan is confirmed, law enforcement in the field can attempt to apprehend the wanted vehicle or person. LPR data is also used in investigating crimes and accidents. The collected data is networked to MCAC where it is retained on a central server for one year. MCAC was created in November 2003, as a center for coordinating the efforts of federal, State, and local

agencies to gather, analyze, and share intelligence information with law enforcement, public health, and emergency responder personnel.

Currently, there are 64 different law enforcement agencies in Maryland utilizing LPR technology, and 80% of those agencies have networked their LPR system to MCAC. The Department of State Police and the Maryland Transportation Authority (MDTA) are primary users of the technology. As of 2013, law enforcement agencies in the State have direct access to MCAC LPR data through the State's Criminal Justice Dashboard. All law enforcement agencies must adhere to MCAC policies. According to MCAC, the data is used for crime analyses, law enforcement alerts, and the identification of the movement of individuals in an open criminal investigation. Once a scan triggers an alert, the license plate image must be verified and the status of any warrant or active violation must be verified.

Approximately 97% of law enforcement agencies in Maryland currently using LPR technology are using equipment and software manufactured by a company called ELSAG North America. ELSAG has developed a software upgrade which provides improved functionality and other new features. MCAC has procured funding to cover the cost of the upgrade for all law enforcement agencies in Maryland that use ELSAG and will be networked to MCAC. These software upgrades and modifications do not currently capture all of the reporting detail enumerated under the bill. Delivery of the upgrades is expected before the end of fiscal 2014.

MCAC purges all LPR data after one year, unless there is determined to be an evidentiary value in criminal justice or security pursuits. While arrests have been made using this data, the overall effectiveness of LPRs has not yet been independently evaluated.

The EZ-Pass operations of MDTA employ a service contractor to search license plate data of motorists who have used State toll facilities without paying the required toll. In a typical year, 13.8 million registrations are reviewed. The service contractor uses an "optical character recognition" (OCR) system to review 25% (3.45 million) of those license plate images each year. MVA uses LPRs to search and identify violations related to insurance violations and automobile theft.

The following states are known to have LPR data retention statutes: Arkansas, California, Maine, Utah, and Vermont. New Jersey has an LPR data retention policy as a directive from the New Jersey Attorney General.

State Fiscal Effect: MCAC currently compiles the information required under the bill through a manual process. Development of a model audit policy by MCAC for access to and use of LPR data by October 1, 2015, can be handled with existing budgeted

resources. Development of LPR procedures relating to the operation and use of the system by DSP and any other affected State law enforcement agency can be handled with existing budgeted resources. It is assumed that the bill's reporting requirements can also be met with existing resources.

Local Fiscal Effect: The bill's reporting requirements increase workloads for some larger jurisdictions with greater numbers of LPRs in operation. However, the Department of Legislative Services advises that the requirements can generally be met with existing local resources. Montgomery County reports that any additional workload related to the new reporting requirements can be handled with existing budgeted resources. Prince George's County reports that the reporting requirements could more easily be addressed after the rollout of the new ELSAG software. In some jurisdictions, the reporting requirements are expected to be handled manually.

Additional Information

Prior Introductions: None.

Cross File: HB 289 (Delegate Carr, *et al.*) - Judiciary.

Information Source(s): Carroll, Harford, Montgomery, and Queen Anne's counties; Governor's Office of Crime Control and Prevention; Department of General Services; Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Department of Transportation; Maryland Chiefs of Police Association; Maryland Sheriffs' Association; Maryland Coordination and Analysis Center; Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2014
mm/lgc Revised - Senate Third Reader - April 3, 2014
Revised - Enrolled Bill - April 30, 2014

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