



Rep. Peter Breen

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1 AMENDMENT TO HOUSE BILL 3289

2 AMENDMENT NO. _____. Amend House Bill 3289, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Freedom from Automatic License Plate Reader Surveillance Act.

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

8 "Alert" means information contained in databases
9 maintained by the Secretary of State of this State or by
10 federal, State, or local law enforcement agencies, and license
11 plate numbers that have been manually entered into the ALPR
12 system upon an officer's determination that the vehicles or
13 individuals associated with the license plate numbers are
14 relevant and material to an ongoing criminal or missing person
15 investigation.

16 "Automatic license plate reader system" or "ALPR system"

1 means a system of one or more mobile or fixed automatic
2 high-speed cameras used in combination with computer
3 algorithms to convert images of license plates into
4 computer-readable data.

5 "Captured plate data" means the GPS coordinates, date and
6 time, photograph, license plate number, and any other data
7 captured by or derived from any ALPR system.

8 "Law enforcement agency" means any agency of this State or
9 a unit of local government which is vested by law or ordinance
10 with the duty to maintain public order and to enforce criminal
11 laws and ordinances.

12 "Law enforcement officer" means any officer, agent, or
13 employee of this State or a unit of local government authorized
14 by law or by a government agency to engage in or supervise the
15 prevention, detection, or investigation of any violation of
16 criminal law, or authorized by law to supervise sentenced
17 criminal offenders.

18 "Look-out order" means an order received or initiated by a
19 law enforcement agency to look out for a particular person
20 reasonably suspected of being a threat to public safety or
21 engaged in criminal activity.

22 Section 10. Allowable uses of ALPR systems. Except as
23 otherwise provided in this Section, a person acting under the
24 color of State law may not use any ALPR system. An ALPR systems
25 may be used:

1 (1) for electronic toll collection and enforcement of
2 violations for non-payment of tolls;

3 (2) for traffic enforcement;

4 (3) by parking enforcement entities for regulating the
5 use of parking facilities;

6 (4) for controlling access to secured areas that have
7 clear boundaries, entry only through specific controlled
8 points, and limited access;

9 (5) for the purpose of conducting criminal
10 investigations upon an officer's determination that the
11 vehicles or individuals associated with the license plate
12 numbers are relevant and material to an ongoing criminal
13 investigation; or

14 (6) by law enforcement agencies for the comparison of
15 captured plate data with information contained in
16 databases maintained by the Secretary of State of this
17 State or by federal, State, or local law enforcement
18 agencies, and with license plate numbers that have been
19 manually entered into an ALPR system upon an officer's
20 determination that the vehicles or individuals associated
21 with the license plate numbers are relevant and material to
22 an ongoing criminal or missing person investigation, for
23 the purpose of identifying:

24 (A) vehicles that are stolen, or in violation of
25 any registration or inspection requirements;

26 (B) persons who are missing, or the subject of an

1 arrest warrant, look-out order, traffic citation, or
2 parking citation; or

3 (C) vehicles that are relevant and material to an
4 ongoing criminal investigation.

5 Section 15. Protections.

6 (a) Captured plate data obtained for the purposes described
7 under paragraph (6) of Section 10 shall not be used, shared,
8 sold, traded, or exchanged for any other purpose and shall not
9 be preserved for more than 30 months by a law enforcement
10 agency except it may be preserved for more than 30 months:

11 (1) under a preservation request under Section 20;

12 (2) under a disclosure order under Section 20;

13 (3) as part of an ongoing investigation provided that
14 the captured plate data is confirmed as matching an alert
15 and is destroyed at the conclusion of either:

16 (A) an investigation that does not result in any
17 criminal charges being filed; or

18 (B) any criminal action undertaken in the matter
19 involving the captured plate data.

20 (b) Any law enforcement agency that uses an ALPR system
21 under paragraph (6) of Section 10 must update that system from
22 the databases described in paragraph (6) of Section 10 at the
23 beginning of each shift if the updates are available.

24 (c) Any law enforcement agency that uses an ALPR system
25 under paragraph (6) of Section 10 may manually enter license

1 plate numbers into the ALPR system only if an officer
2 determines that the vehicle or individuals associated with the
3 license plate numbers are relevant and material to an ongoing
4 criminal or missing persons investigation and subject to the
5 following limitations:

6 (1) any manual entry must document the reason for the
7 entry; and

8 (2) manual entries must be purged after 48 hours,
9 unless an officer determines that the vehicle or
10 individuals associated with the license plate numbers
11 continue to be relevant and material to an ongoing criminal
12 or missing persons investigation.

13 (d) ALPR system captured plate data is not subject to
14 disclosure under the Freedom of Information Act, unless the
15 disclosure is consented to in writing by the individual
16 subjects of the information.

17 Section 20. Preservation and disclosure.

18 (a) An operator of an automatic license plate reader
19 system, upon the request of a law enforcement agency or a
20 defendant in a criminal case, shall take all necessary steps to
21 preserve captured plate data in its possession for 30 months
22 pending the issuance of a court order under Section (b). A
23 requesting governmental entity or defendant in a criminal case
24 must specify in a written sworn statement:

25 (1) the particular camera or cameras for which captured

1 plate data must be preserved or the particular license
2 plate for which captured plate data must be preserved; and

3 (2) the date or dates and timeframes for which captured
4 plate data must be preserved.

5 (b) A law enforcement agency or defendant in a criminal
6 case may apply for a court order for disclosure of captured
7 plate data which shall be issued by any court that is a court
8 of competent jurisdiction if the law enforcement agency or
9 defendant in a criminal case offers specific and articulable
10 facts showing that there are reasonable grounds to believe that
11 the captured plate data is relevant and material to an ongoing
12 criminal or missing persons investigation or criminal
13 prosecution.

14 (c) A law enforcement agency or defendant in a criminal
15 case may apply for a court order for disclosure of private ALPR
16 captured plate data if a warrant is issued for a forcible
17 felony as defined in Section 2-8 of the Criminal Code of 2012,
18 including first degree murder and child abduction, which shall
19 be issued by any court of competent jurisdiction if the law
20 enforcement agency or defendant in a criminal case offers
21 specific and articulable facts showing that there are
22 reasonable grounds to believe that the captured plate data is
23 relevant and material to an ongoing criminal or missing persons
24 investigation or criminal prosecution.

25 (d) Captured plate data held by a law enforcement agency
26 shall be destroyed if the application for an order under

1 Section (b) of this Section is denied or at the end of 30
2 months, whichever is later.

3 Section 25. Allowable uses of all other captured plate
4 data. If an ALPR system captures plate information under
5 paragraph (1), (2), (3), (4), or (5) of Section 10 of this Act,
6 then the captured plate information:

7 (1) shall be used and disclosed only as necessary to
8 achieve the purpose for which the information was captured
9 and shall not be sold, traded, or exchanged for any other
10 purpose;

11 (2) shall be destroyed within 48 hours of the
12 completion of that purpose; and

13 (3) shall not be subject to disclosure under the
14 Freedom of Information Act, unless the disclosure is
15 consented to in writing by the individual subjects of the
16 information.

17 Section 30. Use of privately held captured plate data.

18 (a) A law enforcement agency may obtain, receive, or use
19 privately-held captured plate data for the purposes described
20 in paragraph (3) of Section 10 only if the law enforcement
21 agency accesses private automatic license plate reader system
22 captured plate data for a time period of 30 months or fewer.

23 (b) A law enforcement agency may obtain, receive, or use
24 privately-held captured plate data for the purposes described

1 in paragraphs (5) and (6) of Section 10, and only if the law
2 enforcement agency accesses private automatic license plate
3 reader system captured plate data for a time period of 30
4 months or fewer.

5 Section 35. Admissibility. If a court finds by a
6 preponderance of the evidence that captured plate information
7 was gathered, stored, used, or disclosed in violation of this
8 Act, then that information shall be presumed to be inadmissible
9 in any judicial or administrative proceeding. The State may
10 overcome this presumption by proving the applicability of a
11 judicially recognized exception to the exclusionary rule of the
12 Fourth Amendment to the United States Constitution or Article
13 I, Section 6 of the Illinois Constitution, or by a
14 preponderance of the evidence that the individual,
15 partnership, corporation, association, or the law enforcement
16 officer was acting in good faith and reasonably believed that
17 one or more of the exceptions identified in Section 10 existed
18 at the time that the captured plate information was gathered,
19 stored, used, or disclosed.

20 Section 40. Policies and procedures. Any law enforcement
21 agency that uses automatic license plate reader systems under
22 Section 10 shall:

23 (1) adopt a policy governing use of the system and
24 conspicuously post the policy on the law enforcement agency's

1 Internet Web site;

2 (2) adopt a privacy policy to ensure that captured plate
3 data is not shared in violation of this act or any other law
4 and conspicuously post the privacy policy on the law
5 enforcement agency's Internet Web site;

6 (3) adopt audit procedures relating to the use of ALPR
7 system data; and

8 (4) adopt and periodically update a comprehensive training
9 program for agency employees who use or have access to ALPR
10 system data, which fully trains the employees on safeguards in
11 the use of ALPR system data and procedures to adhere to
12 policies and procedures governing the use of ALPR system data.

13 Section 100. The Freedom of Information Act is amended by
14 changing Section 7 as follows:

15 (5 ILCS 140/7) (from Ch. 116, par. 207)

16 Sec. 7. Exemptions.

17 (1) When a request is made to inspect or copy a public
18 record that contains information that is exempt from disclosure
19 under this Section, but also contains information that is not
20 exempt from disclosure, the public body may elect to redact the
21 information that is exempt. The public body shall make the
22 remaining information available for inspection and copying.
23 Subject to this requirement, the following shall be exempt from
24 inspection and copying:

1 (a) Information specifically prohibited from
2 disclosure by federal or State law or rules and regulations
3 implementing federal or State law.

4 (b) Private information, unless disclosure is required
5 by another provision of this Act, a State or federal law or
6 a court order.

7 (b-5) Files, documents, and other data or databases
8 maintained by one or more law enforcement agencies and
9 specifically designed to provide information to one or more
10 law enforcement agencies regarding the physical or mental
11 status of one or more individual subjects.

12 (c) Personal information contained within public
13 records, the disclosure of which would constitute a clearly
14 unwarranted invasion of personal privacy, unless the
15 disclosure is consented to in writing by the individual
16 subjects of the information. "Unwarranted invasion of
17 personal privacy" means the disclosure of information that
18 is highly personal or objectionable to a reasonable person
19 and in which the subject's right to privacy outweighs any
20 legitimate public interest in obtaining the information.
21 The disclosure of information that bears on the public
22 duties of public employees and officials shall not be
23 considered an invasion of personal privacy.

24 (d) Records in the possession of any public body
25 created in the course of administrative enforcement
26 proceedings, and any law enforcement or correctional

1 agency for law enforcement purposes, but only to the extent
2 that disclosure would:

3 (i) interfere with pending or actually and
4 reasonably contemplated law enforcement proceedings
5 conducted by any law enforcement or correctional
6 agency that is the recipient of the request;

7 (ii) interfere with active administrative
8 enforcement proceedings conducted by the public body
9 that is the recipient of the request;

10 (iii) create a substantial likelihood that a
11 person will be deprived of a fair trial or an impartial
12 hearing;

13 (iv) unavoidably disclose the identity of a
14 confidential source, confidential information
15 furnished only by the confidential source, or persons
16 who file complaints with or provide information to
17 administrative, investigative, law enforcement, or
18 penal agencies; except that the identities of
19 witnesses to traffic accidents, traffic accident
20 reports, and rescue reports shall be provided by
21 agencies of local government, except when disclosure
22 would interfere with an active criminal investigation
23 conducted by the agency that is the recipient of the
24 request;

25 (v) disclose unique or specialized investigative
26 techniques other than those generally used and known or

1 disclose internal documents of correctional agencies
2 related to detection, observation or investigation of
3 incidents of crime or misconduct, and disclosure would
4 result in demonstrable harm to the agency or public
5 body that is the recipient of the request;

6 (vi) endanger the life or physical safety of law
7 enforcement personnel or any other person; ~~or~~

8 (vii) obstruct an ongoing criminal investigation
9 by the agency that is the recipient of the request; or

10 ~~or~~

11 (viii) disclose captured plate data as that term is
12 defined in Section 5 of the Freedom from Automatic
13 License Plate Reader Surveillance Act, unless the
14 disclosure is consented to in writing by the individual
15 subjects of the information.

16 (d-5) A law enforcement record created for law
17 enforcement purposes and contained in a shared electronic
18 record management system if the law enforcement agency that
19 is the recipient of the request did not create the record,
20 did not participate in or have a role in any of the events
21 which are the subject of the record, and only has access to
22 the record through the shared electronic record management
23 system.

24 (e) Records that relate to or affect the security of
25 correctional institutions and detention facilities.

26 (e-5) Records requested by persons committed to the

1 Department of Corrections if those materials are available
2 in the library of the correctional facility where the
3 inmate is confined.

4 (e-6) Records requested by persons committed to the
5 Department of Corrections if those materials include
6 records from staff members' personnel files, staff
7 rosters, or other staffing assignment information.

8 (e-7) Records requested by persons committed to the
9 Department of Corrections if those materials are available
10 through an administrative request to the Department of
11 Corrections.

12 (f) Preliminary drafts, notes, recommendations,
13 memoranda and other records in which opinions are
14 expressed, or policies or actions are formulated, except
15 that a specific record or relevant portion of a record
16 shall not be exempt when the record is publicly cited and
17 identified by the head of the public body. The exemption
18 provided in this paragraph (f) extends to all those records
19 of officers and agencies of the General Assembly that
20 pertain to the preparation of legislative documents.

21 (g) Trade secrets and commercial or financial
22 information obtained from a person or business where the
23 trade secrets or commercial or financial information are
24 furnished under a claim that they are proprietary,
25 privileged or confidential, and that disclosure of the
26 trade secrets or commercial or financial information would

1 cause competitive harm to the person or business, and only
2 insofar as the claim directly applies to the records
3 requested.

4 The information included under this exemption includes
5 all trade secrets and commercial or financial information
6 obtained by a public body, including a public pension fund,
7 from a private equity fund or a privately held company
8 within the investment portfolio of a private equity fund as
9 a result of either investing or evaluating a potential
10 investment of public funds in a private equity fund. The
11 exemption contained in this item does not apply to the
12 aggregate financial performance information of a private
13 equity fund, nor to the identity of the fund's managers or
14 general partners. The exemption contained in this item does
15 not apply to the identity of a privately held company
16 within the investment portfolio of a private equity fund,
17 unless the disclosure of the identity of a privately held
18 company may cause competitive harm.

19 Nothing contained in this paragraph (g) shall be
20 construed to prevent a person or business from consenting
21 to disclosure.

22 (h) Proposals and bids for any contract, grant, or
23 agreement, including information which if it were
24 disclosed would frustrate procurement or give an advantage
25 to any person proposing to enter into a contractor
26 agreement with the body, until an award or final selection

1 is made. Information prepared by or for the body in
2 preparation of a bid solicitation shall be exempt until an
3 award or final selection is made.

4 (i) Valuable formulae, computer geographic systems,
5 designs, drawings and research data obtained or produced by
6 any public body when disclosure could reasonably be
7 expected to produce private gain or public loss. The
8 exemption for "computer geographic systems" provided in
9 this paragraph (i) does not extend to requests made by news
10 media as defined in Section 2 of this Act when the
11 requested information is not otherwise exempt and the only
12 purpose of the request is to access and disseminate
13 information regarding the health, safety, welfare, or
14 legal rights of the general public.

15 (j) The following information pertaining to
16 educational matters:

17 (i) test questions, scoring keys and other
18 examination data used to administer an academic
19 examination;

20 (ii) information received by a primary or
21 secondary school, college, or university under its
22 procedures for the evaluation of faculty members by
23 their academic peers;

24 (iii) information concerning a school or
25 university's adjudication of student disciplinary
26 cases, but only to the extent that disclosure would

1 unavoidably reveal the identity of the student; and

2 (iv) course materials or research materials used
3 by faculty members.

4 (k) Architects' plans, engineers' technical
5 submissions, and other construction related technical
6 documents for projects not constructed or developed in
7 whole or in part with public funds and the same for
8 projects constructed or developed with public funds,
9 including but not limited to power generating and
10 distribution stations and other transmission and
11 distribution facilities, water treatment facilities,
12 airport facilities, sport stadiums, convention centers,
13 and all government owned, operated, or occupied buildings,
14 but only to the extent that disclosure would compromise
15 security.

16 (l) Minutes of meetings of public bodies closed to the
17 public as provided in the Open Meetings Act until the
18 public body makes the minutes available to the public under
19 Section 2.06 of the Open Meetings Act.

20 (m) Communications between a public body and an
21 attorney or auditor representing the public body that would
22 not be subject to discovery in litigation, and materials
23 prepared or compiled by or for a public body in
24 anticipation of a criminal, civil or administrative
25 proceeding upon the request of an attorney advising the
26 public body, and materials prepared or compiled with

1 respect to internal audits of public bodies.

2 (n) Records relating to a public body's adjudication of
3 employee grievances or disciplinary cases; however, this
4 exemption shall not extend to the final outcome of cases in
5 which discipline is imposed.

6 (o) Administrative or technical information associated
7 with automated data processing operations, including but
8 not limited to software, operating protocols, computer
9 program abstracts, file layouts, source listings, object
10 modules, load modules, user guides, documentation
11 pertaining to all logical and physical design of
12 computerized systems, employee manuals, and any other
13 information that, if disclosed, would jeopardize the
14 security of the system or its data or the security of
15 materials exempt under this Section.

16 (p) Records relating to collective negotiating matters
17 between public bodies and their employees or
18 representatives, except that any final contract or
19 agreement shall be subject to inspection and copying.

20 (q) Test questions, scoring keys, and other
21 examination data used to determine the qualifications of an
22 applicant for a license or employment.

23 (r) The records, documents, and information relating
24 to real estate purchase negotiations until those
25 negotiations have been completed or otherwise terminated.
26 With regard to a parcel involved in a pending or actually

1 and reasonably contemplated eminent domain proceeding
2 under the Eminent Domain Act, records, documents and
3 information relating to that parcel shall be exempt except
4 as may be allowed under discovery rules adopted by the
5 Illinois Supreme Court. The records, documents and
6 information relating to a real estate sale shall be exempt
7 until a sale is consummated.

8 (s) Any and all proprietary information and records
9 related to the operation of an intergovernmental risk
10 management association or self-insurance pool or jointly
11 self-administered health and accident cooperative or pool.
12 Insurance or self insurance (including any
13 intergovernmental risk management association or self
14 insurance pool) claims, loss or risk management
15 information, records, data, advice or communications.

16 (t) Information contained in or related to
17 examination, operating, or condition reports prepared by,
18 on behalf of, or for the use of a public body responsible
19 for the regulation or supervision of financial
20 institutions or insurance companies, unless disclosure is
21 otherwise required by State law.

22 (u) Information that would disclose or might lead to
23 the disclosure of secret or confidential information,
24 codes, algorithms, programs, or private keys intended to be
25 used to create electronic or digital signatures under the
26 Electronic Commerce Security Act.

1 (v) Vulnerability assessments, security measures, and
2 response policies or plans that are designed to identify,
3 prevent, or respond to potential attacks upon a community's
4 population or systems, facilities, or installations, the
5 destruction or contamination of which would constitute a
6 clear and present danger to the health or safety of the
7 community, but only to the extent that disclosure could
8 reasonably be expected to jeopardize the effectiveness of
9 the measures or the safety of the personnel who implement
10 them or the public. Information exempt under this item may
11 include such things as details pertaining to the
12 mobilization or deployment of personnel or equipment, to
13 the operation of communication systems or protocols, or to
14 tactical operations.

15 (w) (Blank).

16 (x) Maps and other records regarding the location or
17 security of generation, transmission, distribution,
18 storage, gathering, treatment, or switching facilities
19 owned by a utility, by a power generator, or by the
20 Illinois Power Agency.

21 (y) Information contained in or related to proposals,
22 bids, or negotiations related to electric power
23 procurement under Section 1-75 of the Illinois Power Agency
24 Act and Section 16-111.5 of the Public Utilities Act that
25 is determined to be confidential and proprietary by the
26 Illinois Power Agency or by the Illinois Commerce

1 Commission.

2 (z) Information about students exempted from
3 disclosure under Sections 10-20.38 or 34-18.29 of the
4 School Code, and information about undergraduate students
5 enrolled at an institution of higher education exempted
6 from disclosure under Section 25 of the Illinois Credit
7 Card Marketing Act of 2009.

8 (aa) Information the disclosure of which is exempted
9 under the Viatical Settlements Act of 2009.

10 (bb) Records and information provided to a mortality
11 review team and records maintained by a mortality review
12 team appointed under the Department of Juvenile Justice
13 Mortality Review Team Act.

14 (cc) Information regarding interments, entombments, or
15 inurnments of human remains that are submitted to the
16 Cemetery Oversight Database under the Cemetery Care Act or
17 the Cemetery Oversight Act, whichever is applicable.

18 (dd) Correspondence and records (i) that may not be
19 disclosed under Section 11-9 of the Public Aid Code or (ii)
20 that pertain to appeals under Section 11-8 of the Public
21 Aid Code.

22 (ee) The names, addresses, or other personal
23 information of persons who are minors and are also
24 participants and registrants in programs of park
25 districts, forest preserve districts, conservation
26 districts, recreation agencies, and special recreation

1 associations.

2 (ff) The names, addresses, or other personal
3 information of participants and registrants in programs of
4 park districts, forest preserve districts, conservation
5 districts, recreation agencies, and special recreation
6 associations where such programs are targeted primarily to
7 minors.

8 (gg) Confidential information described in Section
9 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

10 (hh) The report submitted to the State Board of
11 Education by the School Security and Standards Task Force
12 under item (8) of subsection (d) of Section 2-3.160 of the
13 School Code and any information contained in that report.

14 (1.5) Any information exempt from disclosure under the
15 Judicial Privacy Act shall be redacted from public records
16 prior to disclosure under this Act.

17 (2) A public record that is not in the possession of a
18 public body but is in the possession of a party with whom the
19 agency has contracted to perform a governmental function on
20 behalf of the public body, and that directly relates to the
21 governmental function and is not otherwise exempt under this
22 Act, shall be considered a public record of the public body,
23 for purposes of this Act.

24 (3) This Section does not authorize withholding of
25 information or limit the availability of records to the public,
26 except as stated in this Section or otherwise provided in this

1 Act.

2 (Source: P.A. 97-333, eff. 8-12-11; 97-385, eff. 8-15-11;
3 97-452, eff. 8-19-11; 97-783, eff. 7-13-12; 97-813, eff.
4 7-13-12; 97-847, eff. 9-22-12; 97-1065, eff. 8-24-12; 97-1129,
5 eff. 8-28-12; 98-463, eff. 8-16-13; 98-578, eff. 8-27-13;
6 98-695, eff. 7-3-14.)".