A bill for an act
relating to public safety; regulating the use of unmanned aerial vehicles by law enforcement agencies; classifying data; amending Minnesota Statutes 2018, section 13.82, subdivision 15, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 626.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2018, section 13.82, subdivision 15, is amended to read:

Subd. 15. Public benefit data. Any law enforcement agency may make any data classified as confidential or protected nonpublic pursuant to subdivision 7 or as private or nonpublic under section 13.825 or 626.19 accessible to any person, agency, or the public if the agency determines that the access will aid the law enforcement process, promote public safety, or dispel widespread rumor or unrest.

Sec. 2. Minnesota Statutes 2018, section 13.82, is amended by adding a subdivision to read:

Subd. 32. Unmanned aerial vehicles. Section 626.19 governs data collected, created, or maintained through the use of an unmanned aerial vehicle.

Sec. 3. [626.19] USE OF UNMANNED AERIAL VEHICLES.

Subdivision 1. Application; definitions. (a) This section applies to unmanned aerial vehicle data collected, created, or maintained by a law enforcement agency and to law enforcement agencies that maintain, use, or plan to use an unmanned aerial vehicle in investigations, training, or in response to emergencies, incidents, and requests for service.
Unmanned aerial vehicle data collected, created, or maintained by a government entity is classified under chapter 13.

(b) For purposes of this section, the following terms have the meanings given:

(1) "government entity" has the meaning given in section 13.02, subdivision 7a, except that it does not include a law enforcement agency;

(2) "law enforcement agency" has the meaning given in section 626.84, subdivision 1;

(3) "unmanned aerial vehicle" or "UAV" means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft; and

(4) "terrorist attack" means a crime that furthers terrorism as defined in section 609.714, subdivision 1.

Subd. 2. Use of unmanned aerial vehicles limited. Except as provided in subdivision 3, a law enforcement agency must not use a UAV without a search warrant issued under this chapter.

Subd. 3. Authorized use. A law enforcement agency may use a UAV:

(1) during or in the aftermath of an emergency situation that involves the risk of death or bodily harm to a person;

(2) over a public event where there is a heightened risk to the safety of participants or bystanders;

(3) to counter a risk of a terrorist attack by a specific individual or organization if the agency determines that credible intelligence indicates this risk;

(4) to prevent the loss of life and property in natural or man-made disasters and to facilitate the operational planning, rescue, and recovery operations in the aftermath of these disasters;

(5) to conduct a threat assessment in anticipation of a specific event;

(6) to collect information from a public area if there is reasonable suspicion of criminal activity;

(7) to collect information for crash reconstruction purposes after a serious or deadly collision occurring on a public road;

(8) over a public area for officer training or public relations purposes; and
(9) for a non-law-enforcement purpose at the request of a government entity provided that the government entity makes the request in writing to the law enforcement agency and specifies the reason for the request and proposed period of use.

Subd. 4. Limitations on use. (a) A law enforcement agency using a UAV must comply with all Federal Aviation Administration requirements and guidelines.

(b) The governing body overseeing the law enforcement agency must approve the agency's acquisition of a UAV.

(c) A law enforcement agency must not deploy a UAV with facial recognition or other biometric-matching technology unless expressly authorized by a warrant.

(d) A law enforcement agency must not equip a UAV with weapons.

(e) A law enforcement agency must not use a UAV to collect data on public protests or demonstrations unless expressly authorized by a warrant or an exception applies under subdivision 3.

Subd. 5. Documentation required. A law enforcement agency must document each use of a UAV, connect each deployment to a unique case number, provide a factual basis for the use of a UAV, and identify the applicable exception under subdivision 3 unless a warrant was obtained.

Subd. 6. Data classification; retention. (a) Data collected by a UAV are private data on individuals or nonpublic data, subject to the following:

(1) if the individual requests a copy of the recording, data on other individuals who do not consent to its release must be redacted from the copy;

(2) UAV data may be disclosed as necessary in an emergency situation under subdivision 3, clause (1);

(3) UAV data may be disclosed to the government entity making a request for UAV use under subdivision 3, clause (9);

(4) UAV data that are criminal investigative data are governed by section 13.82, subdivision 7; and

(5) UAV data that are not public data under other provisions of chapter 13 retain that classification.

(b) Section 13.04, subdivision 2, does not apply to data collected by a UAV.
(c) Notwithstanding section 138.17, a law enforcement agency must delete data collected
by a UAV as soon as possible, and in no event later than seven days after collection unless
the data is part of an active criminal investigation.

Subd. 7. Evidence. Information obtained or collected by a law enforcement agency in
violation of this section is not admissible as evidence in a criminal, administrative, or civil
proceeding against the data subject.

Subd. 8. Remedies. In addition to any other remedies provided by law, including remedies
available under chapter 13, an aggrieved party may bring a civil action against a law
enforcement agency to prevent or remedy a violation of this section.

Subd. 9. Written policies required. The chief officer of every state and local law
enforcement agency that uses or plans to use a UAV must establish and enforce a written
policy governing UAV use, including requests for use from government entities. The agency
must post the written policy on its website, if the agency has a website.

Subd. 10. Notice; disclosure of warrant. (a) Within a reasonable time but not later than
90 days after the court unseals a warrant under this subdivision, the issuing or denying judge
shall cause to be served on the persons named in the warrant and the application an inventory
that shall include notice of:

(1) the fact of the issuance of the warrant or the application;

(2) the date of the issuance and the period of authorized, approved, or disapproved
    collection of information, or the denial of the application; and

(3) the fact that during the period information was or was not collected.

(b) A warrant authorizing collection of information with a UAV must direct that:

(1) the warrant be sealed for a period of 90 days or until the objective of the warrant has
    been accomplished, whichever is shorter; and

(2) the warrant be filed with the court administrator within ten days of the expiration of
    the warrant.

(c) The prosecutor may request that the warrant, supporting affidavits, and any order
granting the request not be filed. An order must be issued granting the request in whole or
in part if, from affidavits, sworn testimony, or other evidence, the court finds reasonable
grounds exist to believe that filing the warrant may cause the search or a related search to
be unsuccessful, create a substantial risk of injury to an innocent person, or severely hamper
an ongoing investigation.
(d) The warrant must direct that following the commencement of any criminal proceeding
using evidence obtained in or as a result of the search, the supporting application or affidavit
must be filed either immediately or at any other time as the court directs. Until such filing,
the documents and materials ordered withheld from filing must be retained by the judge or
the judge's designee.

Subd. 11. Reporting. (a) By January 15 of each year, each law enforcement agency that
maintains, uses, or plans to use a UAV shall report to the commissioner of public safety the
following information for the preceding calendar year:

(1) the number of times a UAV was deployed, organized by the types of incidents and
the types of justification for deployment;

(2) the number of criminal investigations aided by the deployment of UAVs;

(3) the number of deployments of UAVs for reasons other than criminal investigations;

and

(4) the total cost of the agency's UAV program.

(b) By June 15 of each year, the commissioner of public safety shall compile a full and
complete report summarizing the information submitted to the commissioner under paragraph
(a), and submit the report to the chairs and ranking minority members of the senate and
house of representatives committees having jurisdiction over data practices and public safety
issues and make the report public on the department's website.

(c) By January 15 of each year, any judge who has issued a warrant under this section
that expired during the preceding year, or who has denied approval during that year, shall
report to the state court administrator:

(1) the fact that a warrant or extension was applied for;

(2) the kind of warrant or extension applied for;

(3) the fact that the warrant or extension was granted as applied for, was modified, or
was denied;

(4) the period of UAV use authorized by the warrant and the number and duration of
any extensions of the warrant;

(5) the offense specified in the warrant or application or extension of a warrant; and

(6) the identity of the law enforcement agency making the application and the person
authorizing the application.
(d) By June 15 of each year, the state court administrator shall transmit to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over data practices and public safety issues and post on the supreme court's website a full and complete report concerning the number of applications for warrants authorizing or approving use of UAVs or disclosure of information from the use of UAVs under this section and the number of warrants and extensions granted or denied under this section during the preceding calendar year. The report must include a summary and analysis of the data required to be filed with the state court administrator by paragraph (c).