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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO CRIMINAL PROCEDURE -- AUTOMATED LICENSE PLATE READERS

Introduced By: Senators Anderson, Calkin, Acosta, Mack, Euer, Quezada, and DiPalma

Date Introduced: March 10, 2022

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 12 of the General Laws entitled "CRIMINAL PROCEDURE" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 5.3

4 AUTOMATED LICENSE PLATE READERS

5 **12-5.3-1. Automated license plate reader defined.**

6 As used in this chapter, "automated license plate reader" means an electronic device
7 mounted on a law enforcement vehicle or positioned in a stationary location that is capable of
8 recording data on, or taking a photograph of, the license plate of a vehicle and comparing the
9 collected data and photographs to existing law enforcement databases for investigative purposes.
10 "Automated license plate reader" includes a device that is owned or operated by a person who is
11 not a government entity to the extent that data collected by the reader is shared with a law
12 enforcement agency. For the purposes of this chapter, "automated license plate reader" does not
13 refer to those electronic devices mounted on a law enforcement vehicle or positioned in a stationary
14 location that is capable of recording data on, or taking a photograph of, the license plate of a vehicle
15 solely for the purpose of recording the speed on a vehicle, recording information for tolling
16 purposes, or recording traffic patterns and assessing traffic violations at an intersection.

17 **12-5.3-2. Approval mandatory for funding acquisition or use.**

18 (a) A municipal law enforcement agency shall obtain city or town council approval
19 following an advertised public hearing of the council prior to engaging in any of the following acts:

1 (1) Seeking funds for automated license plate readers, including, but not limited to,
2 applying for a grant or soliciting or accepting state or federal funds or in-kind or other donations;

3 (2) Acquiring or borrowing automated license plate readers, whether or not that acquisition
4 is made through the exchange of monies or other consideration; or

5 (3) Soliciting proposals for or entering into an agreement with any other person or entity
6 to acquire, share, or otherwise use automated license plate readers or data therefrom.

7 (b) A state law enforcement agency shall adopt via rulemaking procedures pursuant to
8 chapter 35 of title 42 its policies and procedures relating to the operation of an automated license
9 plate reader system prior to engaging in any of the following acts:

10 (1) Seeking funds for automated license plate readers, including, but not limited to,
11 applying for a grant or soliciting or accepting state or federal funds or in-kind or other donations;

12 (2) Acquiring or borrowing automated license plate readers, whether or not that acquisition
13 is made through the exchange of monies or other consideration; or

14 (3) Soliciting proposals for or entering into an agreement with any other person or entity
15 to acquire, share, or otherwise use automated license plate readers or data therefrom.

16 **12-5.3-3. Regulated use of automated license plate readers.**

17 (a) Operation of and access to an automated license plate reader shall be for official law
18 enforcement purposes only, and shall only be used to scan, detect, and identify license plate
19 numbers for the purpose of identifying:

20 (1) Stolen vehicles;

21 (2) Vehicles associated with wanted, missing, or endangered persons; or

22 (3) Vehicles that register as a match within the National Crime Information Center.

23 (b) An automated license plate reader shall not be used for:

24 (1) Photographing or recording or producing images of the occupants of a motor vehicle;

25 (2) Photographing or recording or producing images of further identifying features of a
26 vehicle, including, but not limited to, bumper stickers, paint color, or other unique aesthetic details;

27 (3) Photographing or recording or producing images of passersby or pedestrians, including
28 the photographing, recording, or production of images which may identify biometric information
29 about such passersby or pedestrians through the usage of facial, voice, iris, or other software;

30 (4) In the absence of a judicial warrant, utilizing any photographs or records or images
31 produced through the implementation of the automated license plate reader for the purpose of
32 identifying potentially associated vehicles or tracking the number of times that a specific vehicle
33 has driven by the automated license plate reader over a certain period of time; or

34 (5) Recording or otherwise capturing audio.

1 (c) Prior to using an automated license plate reader, the municipal or state law enforcement
2 agency that intends to use the technology shall register it with the department of public safety on
3 forms approved by the director of the department of public safety, or designee. The director, or
4 designee, in conjunction with the head of the law enforcement agency, shall certify that the
5 automated license plate reader meets all requirements of this chapter and that the agency has a
6 policy or policies in effect governing its use in accordance with this chapter and a documented
7 training process for the officers that will use it.

8 (d) A positive match by an automated license plate reader alone shall not constitute
9 reasonable suspicion as grounds for a law enforcement officer to stop the vehicle. Prior to stopping
10 a vehicle based on identification within the automated license plate reader database, the officer
11 shall immediately confirm visually that the license plate on the vehicle matches the image of the
12 license plate displayed on the automated license plate reader and that the license plate number
13 meets one of the criteria specified in subsection (a) of this section.

14 (e) Records of license plates recorded by an automated license plate reader shall not be
15 transmitted for any other purpose and shall be purged from the database or system within thirty
16 (30) days of their capture in such a manner that they are destroyed and not recoverable, unless the
17 identification of a license plate resulted in an arrest, a citation, or identified a vehicle that was the
18 subject of a missing person or wanted broadcast, or remains the subject of an active investigation
19 to the extent authorized by this chapter, in which case the data on the particular license plate may
20 be retained until final disposition of the matter. Captured license plate data obtained for the
21 purposes identified in section (a) of this section shall not be used or shared for any other purpose.

22 (f) A law enforcement officer shall be certified in automated license plate reader operation
23 by the department of public safety prior to operating an automated license plate reader system.

24 **12-5.3-4. Public log of use required.**

25 (a) A law enforcement agency that installs or uses any automated license plate reader must
26 maintain a public log of its use, to be updated on an ongoing monthly basis, containing but not
27 limited to, the following information:

28 (1) The aggregate number of vehicles on which data is collected for each month of use and
29 a list of all state and federal databases with which the data were compared, unless the existence of
30 the database itself is not public;

31 (2) For each month of use, a breakdown of the number of vehicles in which the collected
32 data identified a stolen vehicle or license plate, a warrant for the arrest of the owner of the vehicle,
33 or any other basis for pursuing the owner or operator of a motor vehicle based on an identification
34 generated in accordance with § 12-5.3-3(a);

1 (3) The location at which any stationary or fixed location automated license plate reader
2 that is actively collecting data is installed and used;

3 (4) A summary of complaints or concerns that were received during each month of active
4 use about the automated license plate reader; and

5 (5) Any instances of erroneous identification by the automated license plate reader.

6 (b) The law enforcement agency must maintain a public list of current and previous
7 locations for automated license plate readers, including dates at those locations, of any fixed
8 stationary automated license plate readers used by the agency.

9 **12-5.3-5. Review of preexisting uses mandatory.**

10 No later than one hundred twenty (120) days following the effective date of this chapter,
11 any law enforcement agency seeking to continue the use of any automated license plate reader that
12 was in use prior to the effective date, must commence an approval process in accordance with §§
13 12-5.3-2 and 12-5.3-3. If the continued use of the automated license plate reader has not been
14 approved within one hundred eighty (180) days of its submission, the municipal entity or state
15 agency shall cease its use of the automated license plate reader and the sharing of data therefrom
16 unless and until such time as approval is obtained in accordance with this chapter.

17 **12-5.3-6. Remedies and penalties.**

18 (a) To ensure compliance with this chapter or to investigate complaints of misuse of
19 automated license plate readers, the attorney general or designee may examine and audit any
20 automated license plate reader, a server used to store automated license plate reader data, and
21 records pertaining to the use of an automatic license plate reader maintained by any state or
22 municipal law enforcement agency. The attorney general may seek an injunction banning the use
23 of automated license plate readers by an agency found to have used them in violation of this chapter
24 and take any other appropriate action necessary to prevent ongoing violations or deter future
25 violations.

26 (b) Any violation of this chapter, including, but not limited to, funding, acquiring, or
27 utilizing automated license plate readers that has not been approved pursuant to this chapter or
28 utilizing automated license plate readers in a manner or for a purpose that is not authorized herein,
29 constitutes an injury and any person may institute proceedings for injunctive relief and declaratory
30 relief, damages or evidence suppression in any court of competent jurisdiction.

31 (c) A court shall award costs, damages, and reasonable attorneys' fees to a plaintiff who is
32 a prevailing party in an action brought to enforce this chapter.

33 (d) Any data or other information created or collected in contravention of this chapter, and
34 any data or information derived therefrom, shall be immediately deleted and destroyed, and may

1 not be offered as evidence by any municipal or state governmental entity in any criminal or civil
2 action or proceeding except as evidence of the violation of this chapter; or be voluntarily provided
3 to another person or entity for use as evidence or for any other purpose.

4 (e) Notwithstanding subsection (d) of this section, if, upon the discovery of data or other
5 information that was created or collected in contravention of this chapter, it appears such data or
6 information may be material to the defense in a criminal prosecution, a copy of the relevant,
7 potentially material data or other information shall be turned over to the defendant before it is
8 deleted and destroyed.

9 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
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1 This act would provide for municipal and state police authorities to utilize automated
2 license plate readers. Further, the act would identify what data may be collected and define how
3 the data can be used.

4 This act would take effect upon passage.

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