Senate
State of Minnesota

SC5562-3 –Regulating the use of unmanned aerial vehicles by law enforcement agencies

Prepared by:	Priyanka Premo, Senate Counsel (651/296-3914)
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Overview

SC5562-3 is an updated bill draft reflecting changes proposed by the LCC Subcommittee on Data Practices during a July 24, 2019 meeting. The bill draft regulates a law enforcement agency's use of an unmanned aerial vehicle ("UAV" or "drone") and classifies data collected using a UAV.

Summary

Sec. 1. Public benefit data. Authorizes a law enforcement agency to make otherwise private or nonpublic UAV data accessible to others if disclosure will aid the law enforcement process, promote public safety, or dispel widespread rumor or unrest.

Sec. 2. Unmanned aerial vehicles. Adds a cross-reference in Chapter 13 (MN Government Data Practices Act) to the statute governing UAV data.

Sec. 3. Use of unmanned aerial vehicles.

 Subd. 1. Application; definitions. Specifies that this section applies to law enforcement agencies that maintain, use, or plan to use an unmanned aerial vehicle ("UAV" or drone). Defines "law enforcement agency", "UAV", and "government entity."

 Subd. 2. Use of unmanned aerial vehicles limited. Requires a law enforcement agency to obtain a search warrant for the use of a UAV unless an exception applies.

 Subd. 3. Authorized use. Absent a warrant, a law enforcement agency may use a UAV:
- during or in the aftermath of an emergency situation that involves the risk of death or bodily harm to a person;
- over a public event where there is heightened risk to the safety of participants or bystanders;
- to counter a risk of a terrorist attack by a specific individual or organization;

- to prevent the loss of life and property in natural or man-made disasters and to facilitate post-recovery efforts;
- to conduct a threat assessment;
- if there is a reasonable suspicion of criminal activity;
- for crash-reconstruction purposes;
- for officer training or public relations purposes; and
- for a non-law-enforcement purpose at the request of a government entity.

Subd. 4. Limitations on use. Requires governing body approval prior to purchasing a UAV. Prohibits the use of facial recognition or other biometric-matching technology unless expressly authorized by a court. Prohibits weapons-equipped UAVs. Prohibits data collection on public protests or demonstrations unless expressly authorized by a court.

Subd. 5. Documentation required. Requires a law enforcement agency to document each use of a UAV, including identifying the appropriate exception unless a warrant was obtained.

Subd. 6. Data classification; retention. Classifies UAV data as private or nonpublic data subject to certain limitations. Authorizes disclosure of data under limited circumstances. Requires deletion of data within seven days unless it is active criminal investigative data.

Subd. 7. Evidence. Prohibits evidence collected in violation of this section from being admitted in criminal, civil, or administrative proceeding against a data subject.

Subd. 8. Remedies. Clarifies that Chapter 13 remedies apply to violations of this section. Authorizes a civil action against a law enforcement agency for parties aggrieved by a violation of this section.

Subd. 9. Written policies required. Requires law enforcement agencies to create a written policy governing UAV use and make it available on their website.

Subd. 10. Notice; disclosure of warrant. Requires service of a warrant upon persons named in the warrant within 90 days of the court unsealing the warrant. Requires that a warrant be filed with the court administrator within ten days of expiration. Permits a prosecutor to request that the warrant not be filed.

Subd. 11. Reporting. Requires reports from law enforcement agencies, the Commissioner of Public Safety, the judiciary, and the state court administrator related to the use of UAVs.