

HOUSE BILL No. 1558

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2; IC 35-33-15.

Synopsis: Privacy of license plate data. Prohibits a law enforcement agency from retaining license plate data captured by an automated license plate reader for more than 30 days. Specifies exceptions to this retention limit in specified circumstances, including: (1) for captured plate data obtained under a warrant; and (2) for purposes related to ongoing investigations. Allows a law enforcement agency to share captured plate data with another law enforcement agency in certain circumstances. Allows a party to pending or potential litigation, or the party's attorney, to request the retention of captured plate data for more than 30 days. Allows the owner of a license plate to request the retention of the owner's captured plate data for more than 30 days. Provides that requests for the extended retention of captured plate data must: (1) be made in writing; (2) specify a period of retention; and (3) be submitted to the law enforcement agency retaining the desired captured plate data. Requires law enforcement agencies retaining captured plate data to: (1) maintain properly trained personnel; (2) establish protocols that allow for the timely processing of warrants, subpoenas, court orders, and written requests seeking an extended period of retention for captured plate data; (3) create and implement access protocols for retained captured plate data; (4) limit access to the retained captured plate data to personnel that have received proper training in the implemented access protocols; (5) publicly announce, in a public forum and on a semiannual basis, the law enforcement agency's: (A) use of automated license plate readers, if any; and (B)

(Continued next page)

Effective: July 1, 2017.

Pierce

January 23, 2017, read first time and referred to Committee on Veterans Affairs and Public Safety.



Digest Continued

policies and procedures concerning retained captured plate data; (6) remove captured plate data not subject to an extended period of retention within 30 days; and (7) verify the accuracy of information contained in captured plate data before using the captured plate data to further a criminal investigation. Allows a law enforcement agency to adopt rules, ordinances, resolutions, guidelines, or policies, as appropriate, to implement these requirements.



Introduced

First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1558

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-31.5-2-14.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2017]: **Sec. 14.5. "Alert data base", for**
4 **purposes of IC 35-33-15, has the meaning set forth in**
5 **IC 35-33-15-1.**

6 SECTION 2. IC 35-31.5-2-24.7 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2017]: **Sec. 24.7. "Automated license plate**
9 **reader", for purposes of IC 35-33-15, has the meaning set forth in**
10 **IC 35-33-15-2.**

11 SECTION 3. IC 35-31.5-2-33.5 IS ADDED TO THE INDIANA
12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2017]: **Sec. 33.5. "Captured plate data", for**
14 **purposes of IC 35-33-15, has the meaning set forth in**
15 **IC 35-33-15-3.**

2017

IN 1558—LS 7401/DI 101



1 SECTION 4. IC 35-31.5-2-183, AS AMENDED BY P.L.162-2014,
 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2017]: Sec. 183. (a) "Law enforcement agency," for purposes
 4 of receiving information concerning a violation of IC 35-42-3.5-1
 5 (human trafficking), means:

6 (1) an agency or department of:

7 (A) the state; or

8 (B) a political subdivision of the state;

9 whose principal function is the apprehension of criminal
 10 offenders; and

11 (2) the attorney general.

12 (b) "Law enforcement agency", for purposes of IC 35-47-15, has the
 13 meaning set forth in IC 35-47-15-2.

14 (c) "Law enforcement agency", for purposes of IC 35-33-15, has
 15 the meaning set forth in IC 35-33-15-4.

16 SECTION 5. IC 35-33-15 IS ADDED TO THE INDIANA CODE
 17 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2017]:

19 **Chapter 15. Privacy of License Plate Information**

20 **Sec. 1. As used in this chapter, "alert data base" means a data**
 21 **base operated by the bureau of motor vehicles, a law enforcement**
 22 **agency, or the National Crime Information Center. The term**
 23 **includes the kidnappings and missing persons data base maintained**
 24 **by the Federal Bureau of Investigation.**

25 **Sec. 2. (a) As used in this chapter, "automated license plate**
 26 **reader" means:**

27 (1) a system of one (1) or more mobile or fixed high speed
 28 cameras combined with computer algorithms to convert
 29 images of license plates into computer readable data;

30 (2) a device, including a scanner, a bar code reader, or
 31 another similar technology (whether fixed, portable,
 32 handheld, or operated through an application) that is used to
 33 scan, or input data from, license plates; or

34 (3) any other existing or future device or technology that is
 35 used to capture images or data from license plates.

36 (b) The term does not include a device described in
 37 IC 8-15-2-14(a) that is used solely for the collection of tolls.

38 **Sec. 3. (a) As used in this chapter, "captured plate data" means**
 39 **any data that is:**

40 (1) captured by or derived from an automated license plate
 41 reader; and

42 (2) obtained by a law enforcement agency, regardless of



1 whether the law enforcement agency:

2 (A) acquires the data directly or indirectly through:

3 (i) an officer, an official, or an employee of the law
4 enforcement agency;

5 (ii) an agent, an independent contractor, or an outside
6 business; or

7 (iii) any other person; or

8 (B) purchases, or provides other consideration for, the data
9 obtained.

10 (b) The term includes the following:

11 (1) GPS coordinates that relate to the location of a license
12 plate.

13 (2) The date and time that data relating to a license plate was
14 captured.

15 (3) A photograph.

16 (4) A license plate number.

17 Sec. 4. As used in this chapter, "law enforcement agency" means
18 any of the following:

19 (1) An agency or a department of:

20 (A) the state; or

21 (B) a political subdivision of the state;

22 whose principal function is the apprehension or prosecution
23 of criminal offenders.

24 (2) The attorney general.

25 (3) A state or private university:

26 (A) police department; or

27 (B) public safety agency.

28 (4) Any:

29 (A) agency, department, or employee of a political
30 subdivision of the state; or

31 (B) public official;

32 authorized to enforce a local ordinance or other regulation
33 that regulates traffic or parking.

34 (5) Any other agency, department, official, or person
35 authorized by law to exercise police powers in Indiana.

36 Sec. 5. (a) Except as provided in section 6 of this chapter, a law
37 enforcement agency may not retain captured plate data for more
38 than thirty (30) days.

39 (b) The thirty (30) day period described in subsection (a) begins
40 at the time the captured plate data is first acquired by the law
41 enforcement agency.

42 Sec. 6. (a) A law enforcement agency may retain captured plate



1 data for more than thirty (30) days only if one (1) or more of the
 2 following circumstances apply:

- 3 (1) The captured plate data was obtained under a warrant.
 4 (2) A comparison of captured plate data with an alert data
 5 base shows that the captured plate data is relevant to:
 6 (A) an ongoing criminal investigation;
 7 (B) the location or identity of a fugitive from justice;
 8 (C) the location of a missing person; or
 9 (D) the commission of a crime.
 10 (3) The person to whom a license plate was issued requests the
 11 retention of the person's captured plate data for more than
 12 thirty (30) days.
 13 (4) Subject to section 8(c) of this chapter, a party to pending
 14 or potential litigation, or the party's attorney, requests that
 15 captured plate data be retained for more than thirty (30) days
 16 for purposes of the pending or potential litigation.

17 (b) All requests for an extended period of captured plate data
 18 retention must:

- 19 (1) be in writing;
 20 (2) specify a period of retention; and
 21 (3) be submitted to the law enforcement agency retaining the
 22 desired captured plate data.

23 (c) Any captured plate data retention period that exceeds thirty
 24 (30) days must be commensurate with the reason the extended
 25 retention is sought.

26 Sec. 7. (a) Captured plate data may be compared with data
 27 stored in an alert data base to determine if it is relevant to a
 28 circumstance described in section 6(a) of this chapter.

29 (b) Captured plate data described in section 6(a)(1) or 6(a)(2) of
 30 this chapter:

- 31 (1) may be used only to further an ongoing investigation; and
 32 (2) may not be used to generate reasonable suspicion or
 33 probable cause.

34 (c) Captured plate data that does not qualify for extended
 35 retention as described in section 6(a) of this chapter must be
 36 permanently destroyed upon the expiration of the thirty (30) day
 37 retention period described in section 5(a) of this chapter.

38 Sec. 8. (a) Except as described in subsections (b), (c), and (d),
 39 captured plate data is confidential and may not be sold or
 40 transferred by a law enforcement agency to another person.

41 (b) A law enforcement agency may exchange captured plate
 42 data with another law enforcement agency if the captured plate



- 1 data:
- 2 (1) may be retained under section 6(a)(1) or 6(a)(2) of this
- 3 chapter; or
- 4 (2) will assist the recipient law enforcement agency in aiding
- 5 the sharing law enforcement agency with an ongoing
- 6 investigation.
- 7 A recipient law enforcement agency may use captured plate data
- 8 only to further an ongoing investigation. Captured plate data may
- 9 not be used by a recipient law enforcement agency to generate
- 10 reasonable suspicion or probable cause.
- 11 (c) Captured plate data shall be disclosed to a party to pending
- 12 or potential litigation, or the party's attorney, upon timely receipt
- 13 by the law enforcement agency retaining the captured plate data,
- 14 of a written subpoena duces tecum requesting the captured plate
- 15 data sought and setting forth the captured plate data's relevance
- 16 to the pending or potential litigation.
- 17 (d) Captured plate data for a specific license plate shall be
- 18 released to the person to whom the license plate was issued upon
- 19 receipt of a timely, written request made to the law enforcement
- 20 agency responsible for retaining the desired captured plate data.
- 21 Sec. 9. (a) A law enforcement agency that retains captured plate
- 22 data must:
- 23 (1) maintain staff that is properly trained in the use and
- 24 maintenance of all software and hardware related to:
- 25 (A) the law enforcement agency's automated license plate
- 26 readers, if any;
- 27 (B) the systems or data bases used to store the captured
- 28 plate data retained by the law enforcement agency; and
- 29 (C) any alert data bases operated by the law enforcement
- 30 agency;
- 31 (2) establish and implement protocols that allow for the law
- 32 enforcement agency to timely comply with:
- 33 (A) warrants;
- 34 (B) subpoenas;
- 35 (C) court orders; and
- 36 (D) written requests for the disclosure or release of
- 37 captured plate data as described in section 8(c) and 8(d) of
- 38 this chapter;
- 39 (3) create and enforce access protocols for:
- 40 (A) the systems or data bases described in subdivision
- 41 (1)(B); and
- 42 (B) any alert data bases operated by the law enforcement



- 1 agency;
- 2 **(4) limit access to data stored in:**
- 3 **(A) the systems and data bases described in subdivision**
- 4 **(1)(B); and**
- 5 **(B) any alert data bases operated by the law enforcement**
- 6 **agency;**
- 7 **to officers and civilian personnel that have been trained in the**
- 8 **protocols required by subdivision (3);**
- 9 **(5) publicly announce, on a semiannual basis the law**
- 10 **enforcement agency's:**
- 11 **(A) use of automated license plate readers, if applicable;**
- 12 **and**
- 13 **(B) policies and procedures concerning captured plate data**
- 14 **retained by the law enforcement agency;**
- 15 **in a public forum;**
- 16 **(6) remove, as required by sections 5(a) and 7(c) of this**
- 17 **chapter, all captured plate data that does not qualify for a**
- 18 **period of extended retention; and**
- 19 **(7) verify the accuracy of information contained in the**
- 20 **systems and data bases described in subdivision (1)(B) before**
- 21 **using captured plate data for a reason described under section**
- 22 **6(a)(1) or 6(a)(2) of this chapter.**
- 23 **(b) A law enforcement agency that:**
- 24 **(1) is subject to subsection (a); and**
- 25 **(2) exercises any of the executive (including the**
- 26 **administrative) powers of state government;**
- 27 **may adopt rules under IC 4-22-2 to implement this section. In**
- 28 **adopting rules under this subsection, a law enforcement agency**
- 29 **may adopt emergency rules in the manner provided by**
- 30 **IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency**
- 31 **rule adopted by a law enforcement agency under this subsection**
- 32 **and in the manner provided by IC 4-22-2-37.1 expires on the date**
- 33 **on which a rule that supersedes the emergency rule is adopted by**
- 34 **the law enforcement agency under IC 4-22-2-24 through**
- 35 **IC 4-22-2-36.**
- 36 **(c) A law enforcement agency that:**
- 37 **(1) is subject to subsection (a); and**
- 38 **(2) does not exercise any of the executive (including the**
- 39 **administrative) powers of state government;**
- 40 **may adopt ordinances, resolutions, guidelines, or policies, as**
- 41 **applicable, to implement this section. Any ordinance, resolution,**
- 42 **guideline, or policy adopted under this subsection is a public**



1 **record for purposes of IC 5-14-3.**

