

# HOUSE BILL No. 5419

March 2, 2016, Introduced by Reps. Runestad, Lucido, Aaron Miller, Hooker, Glenn, Robinson, Irwin and Dianda and referred to the Committee on Criminal Justice.

A bill to create the surveillance technology act; to create the surveillance technology oversight board; to prescribe the powers and duties of the surveillance technology oversight board; and to require certain reports by police agencies.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "surveillance technology act".

3       Sec. 2. As used in this act:

4       (a) "Board" means the surveillance technology oversight board  
5 created in section 3.

6       (b) "Surveillance technology" means technology used to  
7 intercept, record, or monitor any data including, but not limited  
8 to, voice communication, video recordings, text messages, or  
9 geographic location without the permission of the person being  
10 monitored.

1       Sec. 3. (1) The surveillance technology oversight board is  
2       created within the department of state police.

3       (2) The board shall consist of the following members:

4       (a) The director of the department of state police or his or  
5       her designated representative from within the department of state  
6       police.

7       (b) A representative of the Michigan Sheriffs' Association who  
8       shall serve in an advisory nonvoting capacity.

9       (c) A representative of the Michigan Association of Chiefs of  
10      Police who shall serve in an advisory nonvoting capacity.

11      (d) One individual appointed by the senate majority leader who  
12      is not and has not been a police officer, who represents the  
13      interests of the public.

14      (e) One individual appointed by the speaker of the house of  
15      representatives who is not and has not been a police officer, who  
16      represents the interests of the public.

17      (f) One individual appointed by the governor who is a county  
18      prosecuting attorney.

19      (g) One individual appointed by the governor who is a criminal  
20      defense attorney.

21      (h) One individual appointed by the governor from a  
22      nongovernmental organization representing citizen privacy  
23      interests.

24      (3) The members first appointed to the board shall be  
25      appointed within 90 days after the effective date of this act.

26      (4) Appointed members of the board shall serve for terms of 4  
27      years or until a successor is appointed, whichever is later, except

1 that, of the members first appointed, 1 shall serve for 1 year, 2  
2 shall serve for 2 years, and 2 shall serve for 3 years.

3 (5) If a vacancy occurs on the board, an appointment shall be  
4 made for the unexpired term in the same manner as the original  
5 appointment.

6 (6) The governor may remove a member of the board for  
7 incompetence, dereliction of duty, malfeasance, misfeasance, or  
8 nonfeasance in office, or any other good cause. The governor may  
9 also remove a member of the board for failing to receive or  
10 maintain the proper security clearances necessary to receive  
11 information regarding surveillance technology provided by the  
12 federal government to law enforcement agencies in this state.

13 (7) The first meeting of the board shall be called by the  
14 director of the department of state police. At the first meeting,  
15 the board shall elect from among its members a chairperson and  
16 other officers, from among its voting members, as it considers  
17 necessary or appropriate. After the first meeting, the board shall  
18 meet at least quarterly, or more frequently at the call of the  
19 chairperson or if requested by a majority or more members.

20 (8) A majority of the members of the board constitute a quorum  
21 for the transaction of business at a meeting of the board. A  
22 majority of the members present and serving are required for  
23 official action of the board.

24 (9) The business that the board may perform shall be conducted  
25 at a public meeting of the board held in compliance with the open  
26 meetings act, 1976 PA 267, MCL 15.261 to 15.275.

27 (10) A writing prepared, owned, used, in the possession of, or

1 retained by the board in the performance of an official function is  
2 subject to the freedom of information act, 1976 PA 442, MCL 15.231  
3 to 15.246.

4 (11) Members of the board shall serve without compensation.  
5 However, members of the board may be reimbursed for their actual  
6 and necessary expenses incurred in the performance of their  
7 official duties as members of the board.

8 (12) The board shall do all of the following:

9 (a) Review and analyze surveillance technology for purposes of  
10 regulating the distribution, possession, and use of that technology  
11 in this state.

12 (b) Promulgate rules regarding the distribution, possession,  
13 and use of surveillance technology in this state.

14 (13) Each police agency that possesses or uses any  
15 surveillance technology shall, on a semiannual basis, report all of  
16 the following information to the board in the manner required by  
17 the board:

18 (a) The surveillance technology possessed or used by the  
19 agency or by an entity contracted by the agency, or used by a  
20 police officer employed by the agency.

21 (b) The frequency of the use of the surveillance technology  
22 categorized by the type of surveillance technology and whether the  
23 technology is used daily, weekly, monthly, or several times a year  
24 or less.

25 (c) Any information regarding the use, cost of use, and  
26 limitations of a given type of surveillance technology an agency  
27 wishes to submit.

1           (d) Any agency policies regarding appropriate use of a given  
2 type of surveillance technology.

3           (e) Any agency policies regarding the storage and protection  
4 of data collected through the use of surveillance technology.

5           (f) Whether the use of surveillance technology contributed to  
6 any person being charged with or convicted of a violation of local,  
7 state, or federal law.

8           (14) The board may review the use of surveillance technology  
9 by individuals and entities in the private sector.

10          (15) The board shall submit annual reports of its findings  
11 under subsection (12)(a) with the senate standing committee on  
12 government operations and the house of representatives standing  
13 committee on oversight. Each report under this subsection shall be  
14 submitted not later than February 1 of the year following the year  
15 for which the report is required.

16          Enacting section 1. This act takes effect 90 days after the  
17 date it is enacted into law.