

# SENATE BILL NO. 908

May 05, 2020, Introduced by Senator RUNESTAD and referred to the Committee on Judiciary and Public Safety.

A bill to create the state technology oversight act; to create the state technology oversight board; to prescribe the powers and duties of the state technology oversight board; and to require certain reports by state departments, state agencies, or law enforcement agencies.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

3           Sec. 2. As used in this act:

4           (a) "Board" means the state technology oversight board created

1 in section 3.

2 (b) "Guidelines" means the guidelines established by the board  
3 under section 3(12).

4 (c) "Law enforcement agency" means that term as defined in  
5 section 675d of the Michigan vehicle code, 1949 PA 300, MCL  
6 257.675d.

7 (d) "State agency" means a state department, board,  
8 commission, office, agency, institution, or other unit of state  
9 government.

10 (e) "State department" means that term as defined in section 2  
11 of the Michigan youth corps act, 1983 PA 69, MCL 409.222.

12 (f) "State surveillance technology" means any technology used  
13 by a state department, a state agency, or a vendor that has a  
14 contract through the state that intercepts, records, or monitors  
15 any data, including, but not limited to, voice communications,  
16 video recordings, text messages, nonaggregate health-related data,  
17 or geographical location without the permission of the person being  
18 monitored.

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

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

22 (a) The director of the department of state police or his or  
23 her designated representative from within the department of state  
24 police.

25 (b) An individual from the Michigan intelligence operations  
26 center who is recommended by the director of the department of  
27 state police.

28 (c) Two individuals appointed by the governor who represents  
29 the Fourth Amendment rights and interests of the public. Of the

1 members appointed by the governor under this subdivision, 1 shall  
2 be appointed from a list of 3 or more nominees of the senate  
3 majority leader representing the Fourth Amendment rights and  
4 interests of the public and 1 shall be appointed from a list of 3  
5 or more nominees of the speaker of the house of representatives  
6 representing the Fourth Amendment rights and interests of the  
7 public.

8 (d) The following individuals appointed by the governor with  
9 the advice and consent of the senate:

10 (i) A member of the Prosecuting Attorneys Association of  
11 Michigan.

12 (ii) A representative of the Michigan Sheriffs' Association.

13 (iii) A representative of the Michigan Association of Chiefs of  
14 Police.

15 (iv) An individual from the state court administrative office.

16 (v) An individual from a nongovernmental organization  
17 representing citizen privacy interests.

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

20 (4) Appointed members of the board shall serve for terms of 4  
21 years or until a successor is appointed, whichever is later, except  
22 that of the members first appointed 2 shall serve for 1 year, 3  
23 shall serve for 2 years, and 4 shall serve for 3 years.

24 (5) If a vacancy occurs on the board, an appointment must be  
25 made for the unexpired term in the same manner as the original  
26 appointment.

27 (6) A board member may be removed by a 2/3 majority vote of  
28 all of the members for any of the following reasons:

29 (a) Incompetence, dereliction of duty, malfeasance,

1 misfeasance, or nonfeasance in office, or any other good cause.

2 (b) Failing to receive or maintain the proper security  
3 clearances necessary to receive information regarding the state  
4 surveillance technology provided by the federal government to law  
5 enforcement agencies in this state.

6 (7) The director of the department of state police must call  
7 the first meeting of the board. At the first meeting, the board  
8 shall elect from among its members a chairperson and other officers  
9 as it considers necessary or appropriate. After the first meeting,  
10 the board shall meet at least quarterly, or more frequently at the  
11 call of the chairperson or if requested by a majority of the  
12 members.

13 (8) A majority of the members of the board constitute a quorum  
14 for the transaction of business at a meeting of the board. A  
15 majority of the members present and serving are required for  
16 official action of the board.

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

20 (10) A writing prepared, owned, used, in the possession of, or  
21 retained by the board in the performance of an official function is  
22 subject to the freedom of information act, 1976 PA 442, MCL 15.231  
23 to 15.246.

24 (11) Members of the board shall serve without compensation.  
25 However, members of the board may be reimbursed for their actual  
26 and necessary expenses incurred in the performance of their  
27 official duties as members of the board.

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

29 (a) Review and analyze the state surveillance technology for

1 purposes of proposing guidelines and making recommendations to the  
2 legislature.

3 (b) Establish guidelines regarding the distribution,  
4 possession, and use of the state surveillance technology in this  
5 state.

6 (c) Research and produce recommendations to the legislature  
7 and to the senate and house health policy and judiciary committees  
8 on any current or future possible uses of the state surveillance  
9 technology for tracking and preventing disease, including any  
10 Fourth Amendment protection concerns or collection or storage of  
11 nonaggregate data on individuals.

12 (13) If a state department, state agency, or law enforcement  
13 agency that possesses or uses a state surveillance technology does  
14 not follow the guidelines or the state department, state agency, or  
15 law enforcement agency uses a state surveillance technology for  
16 which a guideline has not yet been established, the state  
17 department, state agency, or law enforcement agency shall, on an  
18 annual basis, report all of the following information to the board  
19 in the manner required by the board:

20 (a) The state surveillance technology possessed or used by the  
21 state department, state agency, or law enforcement agency or by an  
22 entity contracted by the state department, state agency, or law  
23 enforcement agency.

24 (b) The frequency of the use of the state surveillance  
25 technology categorized by the type of the state surveillance  
26 technology.

27 (c) Any information regarding the use, cost of use, and  
28 limitations of a given type of the state surveillance technology  
29 the state department, state agency, or law enforcement agency

1 wishes to submit.

2 (d) Any policies regarding appropriate use of a given type of  
3 the state surveillance technology.

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

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

9 (g) Any grant or funding obtained from the federal government  
10 or a public or private source to use a state surveillance  
11 technology that does not follow the guidelines established under  
12 this act. The report must include the amount, purpose, and date of  
13 the grant or fund and the criteria for obtaining and maintaining  
14 the grant or fund.

15 (14) The board may review the use of the technology by  
16 individuals and entities in the private sector and make  
17 recommendations regarding the use of the technology by the private  
18 sector to the senate standing committee on government operations,  
19 the house of representatives standing committee on oversight, and  
20 the director of the department of state police.

21 (15) The board shall submit annual reports of its findings  
22 under subsection (12) (a) to the legislature. Each report under this  
23 subsection must be submitted not later than February 1 of the year  
24 following the year for which the report is required.

25 (16) This act does not preempt any local laws and regulations  
26 governing the use of surveillance technology by a local government  
27 agency or a law enforcement agency.

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