

HOUSE BILL NO. 333

INTRODUCED BY N. SCHWADERER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO CAMERAS  
5 OPERATED BY STATE AGENCIES OR LOCAL GOVERNMENTS; LIMITING THE USE OF PUBLICLY  
6 OPERATED CAMERAS AND THE RETENTION TIME AND DISSEMINATION OF CERTAIN IMAGES;  
7 REQUIRING THE DEPARTMENT OF JUSTICE TO CONDUCT A BIENNIAL AUDIT OF CAMERAS OPERATED  
8 BY STATE AGENCIES AND LOCAL GOVERNMENTS; REQUIRING PUBLIC NOTICE AND TIME FOR  
9 COMMENT BEFORE A STATE AGENCY OR LOCAL GOVERNMENT INSTALLS A CAMERA; REQUIRING  
10 STATE AGENCIES OR LOCAL GOVERNMENTS THAT OPERATE CAMERAS TO REVIEW CAMERA  
11 OPERATORS FOR COMPLIANCE; CLARIFYING THAT PRIVATE CAMERA OPERATORS UNDER CONTRACT  
12 WITH A STATE AGENCY OR LOCAL GOVERNMENT ARE SUBJECT TO CERTAIN REQUIREMENTS;  
13 PROVIDING EXCEPTIONS FOR CERTAIN PUBLIC BROADCASTING SERVICES; AND PROVIDING AN  
14 APPLICABILITY DATE."

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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18 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 8], the following definitions  
19 apply:

- 20 (1) "Local government" has the meaning provided in 1-2-116.  
21 (2) "Operator" means an individual authorized to use a camera under the supervision or control of a state  
22 agency or local government. The term includes a private individual operating a camera under a contract with a  
23 state agency or local government.  
24 (3) "State agency" means a department, board, commission, committee, authority, or office of the  
25 executive, legislative, or judicial branch of state government, including a unit of the Montana university system.

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27 NEW SECTION. **Section 2. Limitations on use of publicly operated cameras.** (1) A camera operator  
28 may not use a pan, tilt, or zoom function or any other function of a camera to magnify an image of a particular  
29 person or anything in the person's possession unless the operator has individualized, reasonable suspicion that  
30 an offense has been or is being committed or that a threat exists to public safety.

1           (2) A camera operator may not use a pan, tilt, or zoom function or any other function of a camera to aim  
 2 the camera at an activity protected by the first amendment to the United States constitution or to magnify an  
 3 image of the activity unless the operator has individualized, reasonable suspicion that an offense has been or  
 4 is being committed or that a threat exists to public safety.

5           (3) (a) Except as provided in subsection (3)(b), a camera operator may not consider race, national origin,  
 6 ethnicity, religion, gender, sexual orientation, or sexual identity when deciding whether to use a pan, tilt, or zoom  
 7 function or any other function of a camera to aim the camera at a particular person or to magnify an image of the  
 8 person.

9           (b) The provisions of subsection (3)(a) do not apply when the camera operator has an order that provides  
 10 specific information linking a person with one of those demographic characteristics to a particular criminal  
 11 incident.

12           (4) A camera operator may not use a camera to record an activity in a private residence or business.

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 14           **NEW SECTION. Section 3. Prohibition on retaining or disseminating certain camera images.** (1)

15 A state agency or local government may not retain an image from a publicly operated camera for more than 30  
 16 days unless a supervisor determines that:

- 17           (a) there is reasonable suspicion that the image contains evidence of criminal activity; or
- 18           (b) the image is relevant to an ongoing criminal investigation or pending criminal trial.

19           (2) (a) Except as provided in subsection (2)(b), a state agency or local government may not disseminate  
 20 an image from a publicly operated camera.

- 21           (b) A supervisor may disseminate an image:
  - 22           (i) to another governmental agency if:
    - 23           (A) the supervisor has reasonable suspicion that the image contains evidence of criminal activity; or
    - 24           (B) the image is relevant to an ongoing criminal investigation or pending criminal trial; or
  - 25           (ii) to a criminal defendant if the image in question is related to a pending charge against the defendant.

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 27           **NEW SECTION. Section 4. Biennial audit of camera systems.** (1) The department of justice shall

28 conduct a biennial audit of all camera systems operated by a state agency or local government. The purpose of  
 29 the audit is to identify and evaluate:

- 30           (a) the effectiveness of cameras at reducing crime;

- 1 (b) the impact of cameras on the privacy and other civil rights and civil liberties of the public; and  
2 (c) any misuse of cameras and any corrective action taken by the state agency or local government.  
3 (2) The audit is a public document and must be made available to the public. The department shall  
4 submit the audit to the governor, the attorney general, and the legislature as provided in 5-11-210.  
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6 **NEW SECTION. Section 5. Public notice and comment prior to installation -- location of cameras.**

7 (1) Before installing a camera, a state agency or local government shall provide no less than 30 days of public  
8 notice of the proposed camera location and purpose and provide an opportunity for the public to comment on the  
9 proposal. The state agency or local government is not required to hold a public hearing but, at a minimum, shall  
10 accept written comments.

11 (2) A state agency or local government shall provide to the department of justice a list of the locations  
12 of all cameras operated by the state agency or local government, including all cameras installed prior to [the  
13 effective date of this act]. The department of justice shall compile the lists and make the central list available to  
14 the public on the department of justice's website.  
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16 **NEW SECTION. Section 6. Compliance -- investigation -- discipline.** Each state agency or local  
17 government that operates a camera shall:

- 18 (1) review camera operators to ensure compliance with the provisions of [sections 1 through 8], including  
19 that the privacy and other civil rights and civil liberties of the public are being protected;  
20 (2) investigate a camera operator who is alleged to have violated the provisions of [sections 1 through  
21 8]; and  
22 (3) discipline a camera operator who is found to have violated the provisions of [sections 1 through 8].  
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24 **NEW SECTION. Section 7. Private sector cameras.** If a camera operated by an entity in the private  
25 sector links to a camera network operated by a state agency or local government, the provisions of [sections 1  
26 through 8] apply to the camera and the entity operating the camera.  
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28 **NEW SECTION. Section 8. Exceptions for public broadcasting services.** The provisions of [sections  
29 1 through 7] do not apply to:

- 30 (1) the state government broadcasting service provided for in Title 5, chapter 11, part 11; or

