Assemblyman Jeff Gorell

2014 Privacy Legislation

An extremely important role of the California Legislature is to make sure that state laws protect the civil liberties and privacy rights of our state's residents. The very first article of the state Constitution guarantees that all people have an inalienable right to privacy, a guarantee that is often at odds with the growing capabilities of modern technology and government.

Assemblyman Jeff Gorell has been focused on protecting the privacy of Californians, including the landmark legislation that he authored to require search warrants for law enforcement to use surveillance drones, and to prevent Covered California from sharing the personal information of insurance shoppers with third party telemarketers. Some of the legislation that Assemblyman Gorell has supported has passed out of the state legislature in the final days of the 2014 session, and have been sent to Governor Jerry Brown for his signature. This page will be updated as the Governor signs or vetoes each bill.

AB 1327: Drone Privacy

California is recognized worldwide as an incubator for innovation. We are often first in the world to introduce and embrace new technologies that make our lives easier, safer, and more productive.

One of the technologies now emerging from its infancy is the technology of unmanned aerial systems (UAVs), commonly referred to as "drones". Drone technology promises many advantages to both the private and public sectors. Freed from the limitations of an on-board human pilot, drones can be smaller, faster, more maneuverable, more efficient, and far less expensive to build and maintain than manned aircraft.

AB 1327 addresses privacy concerns by implementing strict warrant requirements for law enforcement agencies looking to utilize drones for surveillance. It also mandates that public notice be given when an agency intends to use drones, requires the destruction of collected data within 6 months, and prohibits the weaponization of drones. AB 1327 also makes clear that local bodies can adopt even stricter rules

than what are prescribed in the bill. This bill has been endorsed by LA Times, San Jose Mercury News, Ventura County Star, LA Mayor Eric Garcetti and 42 law professors across the nation.

This legislation, which has tremendous bi-partisan support, needs to pass this year. The Federal Aviation Administration (FAA) has been mandated to authorize the civilian and commercial use of drones by 2015. Recent reports confirm that the Los Angeles Police Department as well as other government agencies have already purchased surveillance drones. If we do not pass AB 1327 this year, drones will begin being deployed before any restrictions on their use are adopted. The potential for abuse by our own government requires that laws be in place before this technology becomes even more common.

Drones are already being used in agriculture outside of the United States, and additional proposed civilian uses of the technology include cargo transport, communications, filmmaking, security, forestry and geology. Government agencies are looking into the technology to help with firefighting, emergency management, weather analysis, and utilities. Private companies such as UPS and Amazon.Com have also begun exploring how they can utilize drones commercially when the technology becomes available.

It's easy to see why Americans are so concerned about the potential for abuse of drone technologies. Over the past few years we have heard about abuses of power from the IRS investigating political opponents of the administration, the NSA spying on Americans' internet and phone calls, the CIA spying on Congress, and a number of other state and federal agencies demonstrating their utter contempt for the civil rights of our citizens.

AB 928: Personal Information Privacy on California State Websites

In 1977, the Legislature enacted the Information Practices Act, declaring that the individual right to privacy was threatened by "the indiscriminate collection, maintenance, and dissemination of personal information." The Act set standards for the collection, retention, and disclosure of information pertaining to individuals by the State of California and its subsidiaries. In 1999, the Legislature augmented the Act by requiring each state department and state agency to

enact and maintain a permanent privacy policy in adherence with the Information Practices Act. Each agency or department's privacy policy must, among other things, describe the purposes for which personally identifiable data are collected, and state that the consent of the consumer shall be required if such data is to be disclosed, made available, or otherwise used for purposes other than those specified by the agency at the time of collection.

This bill enhances the Information Practices Act of 1977 by making privacy policy statements conspicuously visible on state agency and department Web sites. This bill ensures that internet users will have easy access to their privacy rights and protections while viewing and interacting with the state.

AB 1442: Students and Social Media

The number of social media platforms that students have access to such as Facebook, Twitter, and Instagram has never been greater. In recent years, students, parents, and the general public have had to confront the increasing incidence of cyber-bullying or the use of electronic media to harass, intimidate, or terrorize another student. As a result, existing law now allows a student to be suspended or recommended for expulsion for bullying by means of an electronic act.

Some school districts have also elected to monitor the social media activities of their pupils as a means for early discovery and intervention to prevent incidences of cyber-bullying from escalating to something more serious such as violence or personal injury. Many people feel that this data collection constitutes an inappropriate intrusion into their off campus lives. In addition, they indicate that pictures and texts posted by still-young and impressionable students have the potential to be stored by private companies, only to be released later in ways that could haunt them in their adult lives. This bill is intended to address those concerns by imposing restrictions on the use of information obtained from social media by local education agencies and their contractors.

AB 2306: Liability for Invasion of Privacy

For years, California has been at the forefront of both innovation and privacy protection. California is unique in that its Constitution expressly protects an individual's right to privacy from both governmental and private actors.

For the past decade, continuing innovation and improvements in technology have paved the way for the dramatic growth of new electronic devices. With a swipe of a finger, individuals can access the Internet, take digital photography, and track their location all within the context of their smartphones.

This bill will clarify California privacy laws to better encompass future advances in technology. The bill makes it a constructive invasion of privacy to capture an image or sound recording where the subject had a reasonable expectation of privacy, through the use of any device. This would cover current and future advances in technology including but not limited to the use of drones or other visual or auditory enhancing devices.

AB 2643: Invasion of privacy: sexually explicit material

The purpose of this bill is to create a clear, focused civil remedy for victims of non-consensual distribution of intimate images, including a temporary restraining order, injunctive relief and a pseudonymous pleading provision.

This bill provides a direct, private right of action that fights the particulars of non-consensual distribution of intimate imagery. It protects victims from further embarrassment and potential harassment by providing an option for pseudonymous filing. The bill explicitly provides for equitable relief in the form of a temporary restraining order, a preliminary injunction, or a permanent injunction ordering the defendant to remove the distributed images. This addresses the primary objective of most victims who simply want their private images taken down. Thus, this solves the non-consensual distribution of intimate images problem by creating a clear pathway for victims seeking legal justice when a former intimate partner has betrayed their trust and caused serious harm and embarrassment through the distribution of intimate images.

SB 828: Assistance to Federal Agencies

This bill prohibits the State of California from helping a federal agency to collect the electronically stored information or metadata of any person if the state has actual knowledge that the request constitutes an illegal or unconstitutional collection of that information.

Over the last decade, the National Security Agency (NSA) has collected phone record data on every telephone call made or received by every American. Media articles also state the NSA's surveillance program on Americans extends to not just phone records, but also all types of electronic data, including emails, text messages and information stored on Americans' smart phones.

To collect electronic and metadata information, the NSA sometimes relies upon services provided by the state and/or private entities that provide services on behalf of the state. In order to prevent taxpayers' money from going towards violating their own rights, this bill would ban state agencies from giving any material support, participation or assistance to any federal agency to collect electronic or metadata of any person, unless there has been a warrant issued that specifically describes the person, place and thing to be searched or seized.

AB 1560: Covered California Privacy

Assemblyman Jeff Gorell introduced Assembly Bill 1560, a measure designed to protect the privacy of Californians who use the Covered California website to shop for health insurance after it was revealed late last year that the state had distributed the personal information of tens of thousands of people who visited the government website to insurance telemarketers without the knowledge or consent of these shoppers.

Covered California is the state's health insurance exchange, designed to enroll people in a health insurance plan as mandated by the federal Affordable Care Act. Shoppers are not required to use Covered California for their insurance, and it is expected that the majority of Californians will continue to receive their health care coverage outside of the state exchange. However, many people who visited the Covered California website to compare their

options were later surprised by unsolicited calls and emails from insurance salesmen who were given their information by the state.

In addition to the privacy concerns already raised, the current law falls short regarding mandatory public notification if a security breach occurs. Incidents have already occurred in other states such as Minnesota, where 2,400 people's private information, including Social Security numbers, were leaked to an unintended recipient. Additionally, the U.S. Government Accountability Office reported that 4,172 data security incidents affected the Centers for Medicare and Medicaid Services in 2012 alone. In order to ensure consumer protection, AB 1560 would augment current law to provide that any security incident involving personal information, regardless of size or severity, would constitute a mandatory trigger of notification.