

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. This Act may be referred to as the Drones as
5 First Responders Act.

6 Section 5. The Freedom from Drone Surveillance Act is
7 amended by changing Sections 5, 15, 20, 25, and 35 and by
8 adding Sections 17, 18, and 45 as follows:

9 (725 ILCS 167/5)

10 Sec. 5. Definitions. As used in this Act:

11 "Authority" means the Illinois Criminal Justice
12 Information Authority.

13 "Drone" means any aerial vehicle that does not carry a
14 human operator.

15 "Information" means any evidence, images, sounds, data, or
16 other information gathered by a drone.

17 "Law enforcement agency" means any agency of this State or
18 a political subdivision of this State which is vested by law
19 with the duty to maintain public order and to enforce criminal
20 laws.

21 "Parade" means a march, procession, or other similar
22 activity consisting of persons, animals, vehicles, or things,

1 or any combination thereof, upon a public street, sidewalk,
2 alley, or other public place, which requires a street closing
3 or otherwise requires stopping or rerouting vehicular traffic
4 because the parade will not or cannot comply with normal and
5 usual traffic regulations or controls. "Parade" does not
6 include a political protest, march, demonstration, or other
7 assembly protected by the First Amendment.

8 "Routed event" means a parade, walk, or race that:

9 (1) is hosted by the State of Illinois or a county,
10 municipality, township, or park district;

11 (2) is outdoors and open to the public; and

12 (3) has an estimated attendance of more than 50
13 people.

14 "Routed event" does not include any political protest,
15 march, demonstration, or other assembly protected by the First
16 Amendment.

17 "Special event" means a concert or food festival that:

18 (1) is hosted by the State of Illinois or a county,
19 municipality, township, or park district;

20 (2) is outdoors and open to the public; and

21 (3) has an estimated attendance of:

22 (i) 150 or more people in a unit of local
23 government with a population that is less than 50,000;

24 (ii) 250 or more people in a unit of local
25 government with a population that is greater than or
26 equal to 50,000 but less than 100,000;

1 (iii) 350 or more people in a unit of local
2 government with a population that is greater than or
3 equal to 100,000 but less than 500,000; or

4 (iv) 500 or more people in a unit of local
5 government with a population that is 500,000 or more.

6 "Special event" does not include any political protest,
7 march, demonstration, or other assembly protected by the First
8 Amendment.

9 (Source: P.A. 98-569, eff. 1-1-14.)

10 (725 ILCS 167/15)

11 Sec. 15. Exceptions. This Act does not prohibit the use of
12 a drone by a law enforcement agency:

13 (1) To counter a high risk of a terrorist attack by a
14 specific individual or organization if the United States
15 Secretary of Homeland Security determines that credible
16 intelligence indicates that there is that risk.

17 (2) If a law enforcement agency first obtains a search
18 warrant based on probable cause issued under Section 108-3
19 of the Code of Criminal Procedure of 1963. The warrant
20 must be limited to a period of 45 days, renewable by the
21 judge upon a showing of good cause for subsequent periods
22 of 45 days.

23 (3) If a law enforcement agency possesses reasonable
24 suspicion that, under particular circumstances, swift
25 action is needed to prevent imminent harm to life, or to

1 forestall the imminent escape of a suspect or the
2 destruction of evidence. The use of a drone under this
3 paragraph (3) is limited to a period of 48 hours. Within 24
4 hours of the initiation of the use of a drone under this
5 paragraph (3), the chief executive officer of the law
6 enforcement agency must report in writing the use of a
7 drone to the local State's Attorney.

8 (4) If a law enforcement agency is not undertaking a
9 criminal investigation but is attempting to locate a
10 missing person, engaging in search and rescue operations,
11 or aiding a person who cannot otherwise be safely reached,
12 ~~and is not also undertaking a criminal investigation.~~

13 (5) If a law enforcement agency is using a drone
14 solely for crime scene and traffic crash scene
15 photography. Crime scene and traffic crash photography
16 must be conducted in a geographically confined and
17 time-limited manner to document specific occurrences. The
18 use of a drone under this paragraph (5) on private
19 property requires either a search warrant based on
20 probable cause under Section 108-3 of the Code of Criminal
21 Procedure of 1963 or lawful consent to search. The use of a
22 drone under this paragraph (5) on lands, highways,
23 roadways, or areas belonging to this State or political
24 subdivisions of this State does not require a search
25 warrant or consent to search. Any law enforcement agency
26 operating a drone under this paragraph (5) shall make

1 every reasonable attempt to only photograph the crime
2 scene or traffic crash scene and avoid other areas.

3 (6) If a law enforcement agency is using a drone
4 during a disaster or public health emergency, as defined
5 by Section 4 of the Illinois Emergency Management Agency
6 Act. The use of a drone under this paragraph (6) does not
7 require an official declaration of a disaster or public
8 health emergency prior to use. A law enforcement agency
9 may use a drone under this paragraph (6) to obtain
10 information necessary for the determination of whether or
11 not a disaster or public health emergency should be
12 declared, to monitor weather or emergency conditions, to
13 survey damage, or to otherwise coordinate response and
14 recovery efforts. The use of a drone under this paragraph
15 (6) is permissible during the disaster or public health
16 emergency and during subsequent response and recovery
17 efforts.

18 (7) To conduct an infrastructure inspection of a
19 designated building or structure at the express request of
20 a local government agency. Any law enforcement agency
21 operating a drone under this paragraph (7) shall make
22 every reasonable attempt to photograph only the building
23 or structure and to avoid other areas.

24 (8) To demonstrate the capabilities and functionality
25 of a police drone for public relations purposes, provided
26 that no information is collected or recorded by the drone

1 during such demonstration.

2 (9) In response to Public Safety Answering Point
3 (PSAP) dispatched calls for service, when the sole purpose
4 for using a drone is for one or more first responders to
5 locate victims, to assist with immediate victim health or
6 safety needs, or to coordinate the response of emergency
7 vehicles and personnel to an emergency. As used in this
8 paragraph (9), "Public Safety Answering Point" and "PSAP"
9 have the meaning given to those terms in Section 2 of the
10 Emergency Telephone System Act.

11 (10) If a law enforcement agency is using a drone at a
12 routed event or special event. The use of a drone under
13 this paragraph (10) requires that:

14 (A) notice is posted at the event location for at
15 least 24 hours before the event and clearly
16 communicates that drones may be used at the upcoming
17 event for the purpose of real-time monitoring of
18 participant safety;

19 (B) notice is posted, if practical, at major entry
20 points to the event clearly informing the attendees
21 that a drone may be used for the purpose of real-time
22 monitoring of participant safety; and

23 (C) the drone is flown in accordance with Federal
24 Aviation Administration safety regulations.

25 Under this paragraph (10), a law enforcement agency
26 may use the drone:

1 (i) in advance of an event, before event
2 participants have begun to assemble, for the sole
3 purpose of creating maps and determining appropriate
4 access routes, staging areas, and traffic routes,
5 provided that no personal identifying information is
6 recorded and provided further that no recorded
7 information is used in any criminal prosecution; or

8 (ii) during the event to proactively support
9 public safety personnel by monitoring the event
10 footprint in real time:

11 (I) to detect a breach of event space,
12 including a breach by an unauthorized vehicle, an
13 interruption of a parade route, or a breach of an
14 event barricade or fencing;

15 (II) to evaluate crowd size and density;

16 (III) to identify activity that could present
17 a public safety issue for the crowd as a whole,
18 including crowd movement;

19 (IV) to assist in the response of public
20 safety personnel to a real-time public safety
21 incident at the event; and

22 (V) to assess the traffic and pedestrian flow
23 around the event in real time.

24 (Source: P.A. 98-569, eff. 1-1-14; 98-831, eff. 1-1-15.)

1 Sec. 17. Use of facial recognition. A law enforcement
2 agency operating a drone under this Act is prohibited from
3 using, during a flight, onboard facial recognition software
4 that works in conjunction with the drone. A law enforcement
5 agency operating a drone under this Act is prohibited from
6 using any information gathered by a drone with any facial
7 recognition software, unless either (i) the law enforcement
8 agency is using a drone to counter a high risk of a terrorist
9 attack by a specific individual or organization and the United
10 States Secretary of Homeland Security has determined that
11 credible intelligence indicates that there is such a risk or
12 (ii) the law enforcement agency possesses reasonable suspicion
13 that, under particular circumstances, swift action is needed
14 to prevent imminent harm to life or to forestall the imminent
15 escape of a suspect or the destruction of evidence.

16 (725 ILCS 167/18 new)

17 Sec. 18. Use of weapons. A law enforcement agency
18 operating a drone under this Act is prohibited from equipping
19 or using on a drone any firearm, weaponized laser, kinetic
20 impact projectile, chemical agent or irritant, or any other
21 lethal or non-lethal weapon.

22 (725 ILCS 167/20)

23 Sec. 20. Information retention.

24 (a) If a law enforcement agency uses a drone under Section

1 15 of this Act, the agency ~~within 30 days~~ shall destroy all
2 information gathered by the drone within the following
3 timeframes:

4 (1) All information gathered pursuant to paragraph
5 (1), (2), (3), (4), (5), (6), or (9) of Section 15 shall be
6 destroyed within 30 days after being gathered.

7 (2) All information gathered pursuant to paragraph
8 (10) of Section 15 shall be destroyed within 24 hours
9 after being gathered.

10 (3) All information gathered pursuant to paragraph (7)
11 of Section 15 shall be turned over to the requesting local
12 government agency as soon as practicable, and all gathered
13 information shall be destroyed immediately after the
14 information has been turned over.

15 (b) Notwithstanding subsection (a), ~~except that~~ a
16 supervisor at a law enforcement ~~that~~ agency may retain
17 particular information if:

18 (1) there is reasonable suspicion that the information
19 contains evidence of criminal activity; ~~or~~

20 (2) the information is relevant to an ongoing
21 investigation or pending criminal trial;

22 (3) a supervisor at the agency deems that the
23 information will be used exclusively for training
24 purposes, provided that any such information shall not
25 contain any personally identifiable information; or

26 (4) the information consists of only flight path data,

1 metadata, or telemetry information of the drone.

2 (Source: P.A. 98-569, eff. 1-1-14.)

3 (725 ILCS 167/25)

4 Sec. 25. Information disclosure.

5 (a) If a law enforcement agency uses a drone under Section
6 15 of this Act, the agency shall not disclose any information
7 gathered by the drone, except that a supervisor of that agency
8 may disclose particular information to another governmental
9 ~~government~~ agency, if (1) there is reasonable suspicion that
10 the information contains evidence of criminal activity, or (2)
11 the information is relevant to an ongoing investigation or
12 pending criminal trial.

13 (b) Records of drone usage, including flight path data,
14 metadata, or telemetry information of specific flights, if
15 available, may be disclosed subject to the Freedom of
16 Information Act and rules adopted under that Act.

17 (c) A law enforcement agency that uses a drone under
18 Section 15 shall neither sell any information gathered by the
19 drone nor disclose any information gathered by the drone to
20 any person to whom disclosure is not authorized under this
21 Section.

22 (d) Nothing in this Act prevents the disclosure of
23 information through a court order or subpoena in connection
24 with a criminal proceeding or if the disclosure is in regard to
25 a completed traffic crash investigation.

1 (Source: P.A. 98-569, eff. 1-1-14.)

2 (725 ILCS 167/35)

3 Sec. 35. Reporting.

4 (a) If a law enforcement agency owns one or more drones,
5 then subsequent to the effective date of this Act, it shall
6 report in writing annually by April 1 to the Authority the
7 number of drones that it owns, the number of times a drone was
8 used pursuant to each paragraph of Section 15, including the
9 date of use, time of use, reason for use, location, whether
10 video was recorded, and whether the video is designated for
11 retention for training purposes. The report shall contain a
12 copy of the agency's latest policy concerning drones as of the
13 most recent April 1.

14 (b) On July 1 of each year, the Authority shall publish on
15 its publicly available website a concise report that lists
16 every law enforcement agency that owns a drone, and for each of
17 those agencies, the number of drones that it owns, the number
18 of times a drone was used pursuant to each paragraph of Section
19 15, including the date of use, time of use, reason for use,
20 location, whether video was recorded, whether the video is
21 designated for retention for training purposes. The report
22 shall contain a copy of the agency's latest policy concerning
23 drones as of the most recent April 1.

24 (c) Each law enforcement agency that uses a drone shall
25 implement and make publicly available on its website the law

1 enforcement agency's policy governing the operation, use,
2 administration, and oversight of its drone program.

3 (Source: P.A. 98-569, eff. 1-1-14.)

4 (725 ILCS 167/45 new)

5 Sec. 45. Policy; violations.

6 (a) Each law enforcement agency using drones under this
7 Act shall have a policy outlining drone use consistent with
8 this Act. The policy shall include that, if an agency learns of
9 violations of this Act, the agency shall immediately take
10 actions to prevent future violations of the Act through any
11 one or more of the following means: training, discipline,
12 including progressive discipline for repeat violations, or
13 other means that will prevent repeated violations of the Act
14 by law enforcement. If an agency learns of willful and wanton
15 violations of this Act, the agency shall immediately remove
16 the pilot from its drone program and take action to prevent
17 future willful and wanton violations of the Act.

18 (b) The Attorney General shall have authority to conduct
19 investigations into patterns and practices of violations of
20 this Act. The Attorney General may:

21 (1) require a law enforcement agency, law enforcement
22 official, or any other person or entity to file a
23 statement or report in writing under oath or otherwise, as
24 to all information the Attorney General may consider
25 necessary;

1 (2) examine under oath any law enforcement official or
2 any other person alleged to have participated in or with
3 knowledge of the alleged violation; or

4 (3) issue subpoenas, obtain records, conduct hearings,
5 or take any other actions in aid of any investigation.

6 If a law enforcement agency, law enforcement official, or
7 other person or entity fails to comply, in whole or in part,
8 with a subpoena or other investigative request issued under
9 paragraph (3) of this subsection, the Attorney General may
10 compel compliance through an action in the circuit court.

11 (c) Following completion of an investigation under
12 subsection (b), the Attorney General may, upon his or her own
13 information or upon the complaint of any person, maintain an
14 action for declaratory, injunctive, or any other equitable
15 relief in the circuit court against any law enforcement
16 agency, law enforcement official, or other person or entity
17 who violates any provision of this Act. These remedies are in
18 addition to, and not in substitution for, other available
19 remedies, penalties, or disciplinary action.

20 (d) Upon entry of an adverse judgment under this Act
21 demonstrating a pattern or practice of violations of this Act,
22 a law enforcement agency shall forfeit its ability to use
23 drones under Section 15 of this Act for not less than 6 months
24 for a first adverse judgment and up to one year for a second
25 adverse judgment demonstrating a pattern or practice of
26 violating this Act.

1 (e) Nothing in this Section is intended to prohibit or
2 limit any other remedy available by law.

3 Section 97. Severability. The provisions of this Act are
4 severable under Section 1.31 of the Statute on Statutes.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.