



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB2631

Introduced 12/3/2013, by Sen. Ira I. Silverstein

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Out-of-State Law Enforcement Agency Surveillance and Counter-terrorism Notification Act. Provides that a law enforcement agency, or investigative or law enforcement officer, of another state may not conduct a surveillance operation within the borders of this State unless that law enforcement agency, or investigative or law enforcement officer, has provided prior notice of the surveillance operation to the Attorney General, the Director of State Police, and the chief law enforcement officer of the jurisdiction in which the operation is to take place. Provides that any out-of-State law enforcement agency that intends to enter the borders which are under the jurisdiction of this State for the purpose of conducting counter-terrorism activities in this State shall, no later than 24 hours prior to entering Illinois State borders, inform the State's Attorney, or the State's Attorney's designee of the county in which the counter-terrorism activity is to take place. Provides for injunctive relief to prohibit violations of the Act.

LRB098 14753 RLC 49651 b

1 AN ACT concerning criminal law.

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

4 Section 1. Short title. This Act may be cited as the  
5 Out-of-State Law Enforcement Agency Surveillance and  
6 Counter-terrorism Notification Act.

7 Section 5. Definitions. For the purposes of this Act:

8 "Counter-terrorism activity" means any activity undertaken  
9 by a law enforcement agency to investigate, detect, deter, or  
10 prevent the crime of terrorism as defined in Article 29D of the  
11 Criminal Code of 2012, or for an offense of a substantially  
12 similar nature committed in another jurisdiction, without  
13 regard to whether the crime is committed or intended to be  
14 committed in this State.

15 "Counter-terrorism watch" means a counter terrorism entity  
16 within the Department of State Police.

17 "Law enforcement activity" means investigations,  
18 operations, and intelligence gathering activity conducted by a  
19 law enforcement agency or officer. "Law enforcement activity"  
20 does not encompass non-investigatory conduct, including but  
21 not limited to participation in training classes or exercises,  
22 execution of child-support warrants, or transportation of  
23 incarcerated persons to and from this State.

1 "Out-of-State law enforcement agency" means any law  
2 enforcement agency or officer operating under the authority of  
3 the laws of another state. "Out-of-State law enforcement  
4 agency" does not include a federal law enforcement agency or  
5 task force operating under the auspices of a federal law  
6 enforcement agency.

7 "Surveillance operation" means the act of monitoring,  
8 observing, listening to, or making a recording of a person or  
9 group of persons or their movements, activities, and  
10 communications.

11 Section 10. Out-of-State law enforcement agency  
12 surveillance.

13 (a) A law enforcement agency, or investigative or law  
14 enforcement officer, of another state may not conduct a  
15 surveillance operation within the borders of this State unless  
16 that law enforcement agency, or investigative or law  
17 enforcement officer, has provided prior notice of the  
18 surveillance operation to the Attorney General, the Director of  
19 State Police, and the chief law enforcement officer of the  
20 jurisdiction in which the operation is to take place. The  
21 notification shall include:

22 (1) the identity and qualifications of the  
23 investigative or law enforcement officers conducting the  
24 surveillance operation;

25 (2) the identity of the particular person or group of

1 persons, if known, who are the subject of the surveillance  
2 operation;

3 (3) a statement of facts establishing the purpose of  
4 the surveillance activities and the character of the  
5 information that the law enforcement agency or  
6 investigative or law enforcement officer intends to obtain  
7 from conducting a surveillance operation;

8 (4) the location of the surveillance operation or the  
9 particular place where the operation is to take place; and

10 (5) a statement of the period of time during which the  
11 surveillance operation is to be conducted.

12 (b) A local, municipal, or county law enforcement agency or  
13 officer shall promptly notify the State's Attorney, or the  
14 State's Attorney's designee, when a law enforcement officer  
15 learns of, or acquires knowledge of, an out-of-State law  
16 enforcement agency that intends to enter, or has entered, the  
17 borders which are under the jurisdiction of the State of  
18 Illinois for the purpose of conducting law enforcement  
19 activities in this State.

20 (c) Notification required under this Act shall include, but  
21 not be limited to:

22 (1) the date and time that the out-of-State agency's  
23 activity is discovered;

24 (2) the nature, purpose, and scope of the out-of-State  
25 law enforcement agency's activities in this State;

26 (3) the out-of-State law enforcement agency's name and

1 contact information; and

2 (4) the name and contact information of the law  
3 enforcement agency operating in this State.

4 (d) The notification shall be given as soon as practicable,  
5 but in no event shall notification be provided later than 24  
6 hours after learning of, or acquiring information concerning,  
7 the out-of-State agency's law enforcement activity in this  
8 State.

9 Section 15. Injunctive relief; Attorney General. Whenever,  
10 on the basis of available information, the Attorney General  
11 finds that a law enforcement agency, or investigative or law  
12 enforcement officer, of another state has violated the  
13 provisions of this Act or any rule adopted under this Act, the  
14 Attorney General, or his or her designee, may seek and obtain  
15 in a summary proceeding in the circuit court a temporary or  
16 permanent injunction prohibiting that law enforcement agency,  
17 or investigative or law enforcement officer, from engaging in a  
18 surveillance operation. In the proceeding the court may enter  
19 orders that are necessary to prevent the performance of an  
20 unlawful surveillance operation in violation of this Act, or  
21 may require compliance with the provision this Act. A State's  
22 Attorney shall promptly notify the counter-terrorism watch  
23 within the Department of State Police when a law enforcement  
24 officer learns of, or acquires knowledge of, an out-of-State  
25 law enforcement agency that intends to enter, or has entered,

1 the borders which are under the jurisdiction of this State for  
2 the purpose of conducting counter-terrorism activities in this  
3 State. Notifications shall be provided in a manner and within  
4 the time limitations in Section 10 of this Act.

5 Section 20. Counter-terrorism watch. Upon receiving  
6 information that an out-of-State law enforcement agency  
7 intends to enter, or has entered, the borders which are under  
8 the jurisdiction of the State of Illinois for the purpose of  
9 conducting counter-terrorism activities in this State, the  
10 counter-terrorism watch shall notify the Director of State  
11 Police, or the Director's designee, and the Director of the  
12 Illinois Emergency Management Agency.

13 Section 25. Out-of-State law enforcement agency conducting  
14 counter-terrorism activities in this State.

15 (a) Any out-of-State law enforcement agency that intends to  
16 enter the borders which are under the jurisdiction of this  
17 State for the purpose of conducting counter-terrorism  
18 activities in this State shall, no later than 24 hours prior to  
19 entering Illinois State borders, inform the State's Attorney,  
20 or the State's Attorney's designee of the county in which the  
21 counter-terrorism activity is to take place. Notification  
22 required under this Act shall include, but not be limited to:

23 (1) the date and time that the out-of-State agency  
24 intends to conduct the counter-terrorism activity;

1           (2) the nature, purpose, and scope of the  
2 counter-terrorism activity that the out-of-State law  
3 enforcement agency intends to undertake in this State; and

4           (3) the out-of-State law enforcement agency's name and  
5 contact information.

6           The notification shall be given as soon as practicable, but  
7 in no event shall notification be provided later than 24 hours  
8 prior to the counter-terrorism activities being carried out in  
9 this State.

10          (b) A State's Attorney shall promptly notify the  
11 counter-terrorism watch within the Department of State Police  
12 upon receiving notification from an out-of-State law  
13 enforcement agency provided under subsection (a) of this  
14 Section.

15          (c) Upon receiving information that an out-of-State law  
16 enforcement agency intends to enter the borders which are under  
17 the jurisdiction of the State of Illinois for the purpose of  
18 conducting counter-terrorism activities in this State, the  
19 counter-terrorism watch shall notify the Director of State  
20 Police, or the Director's designee, and the Director of the  
21 Illinois Emergency Management Agency.

22          Section 30. Violation of notification requirements.  
23 Whenever, on the basis of available information, the Attorney  
24 General or a State's Attorney, or his or her designee finds  
25 that an out-of-State law enforcement agency has violated the

1 provisions of this Act, by failing to adhere to the  
2 notification requirements under Section 25 or any rule adopted  
3 under this Act, the Attorney General or a State's Attorney, or  
4 his or her designee, may seek and obtain in a summary  
5 proceeding in the circuit court a temporary or permanent  
6 injunction prohibiting that out-of-State law enforcement  
7 agency from conducting counter-terrorism activity within the  
8 borders of this State. In that proceeding, the court may enter  
9 orders as are necessary to prevent the performance of  
10 counter-terrorism activity in violation of the reporting  
11 requirement under this Act, or may require compliance with the  
12 reporting requirements provided under the provisions of this  
13 Act.

14 Section 35. Rules. The Attorney General may adopt rules in  
15 accordance with the Illinois Administrative Procedure Act  
16 necessary to carry out the purposes of this Act.