

As Introduced

132nd General Assembly

Regular Session

2017-2018

S. B. No. 60

Senators Skindell, Jordan

Cosponsors: Senators Thomas, Tavares

A BILL

To enact sections 2933.67, 2933.68, 2933.69, and 1
2933.70 of the Revised Code to regulate the use 2
of drones for gathering evidence and information 3
by law enforcement officers in Ohio. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2933.67, 2933.68, 2933.69, and 5
2933.70 of the Revised Code be enacted to read as follows: 6

Sec. 2933.67. (A) As used in sections 2933.67 to 2933.70 7
of the Revised Code: 8

(1) "Drone" means any powered, aerial vehicle to which all 9
of the following apply: 10

(a) It does not carry a human operator. 11

(b) It uses aerodynamic forces to provide vehicular lift. 12

(c) It can fly automatically or be piloted remotely. 13

(d) It may be expendable or recoverable. 14

(2) "Information" means any image, sound, or data, or any 15
other video or audio information gathered. 16

(3) "Law enforcement officer" means any person specified 17
in division (A) (11) (a), (b), (h), (i), (j), (k), or (n) of 18
section 2901.01 of the Revised Code. 19

(4) "Law enforcement agency" means a municipal police 20
department, the office of a sheriff, the office of a village 21
marshal, a township or joint township police district, the 22
office of a township constable, the state highway patrol, a 23
prosecuting attorney, the office of attorney general, or a state 24
or local governmental body that enforces criminal laws and that 25
has law enforcement officers who have a statutory power of 26
arrest. 27

(B) Except as provided in divisions (D) and (E) of this 28
section, no law enforcement officer of this state or of any 29
political subdivision of this state may use a drone to gather 30
evidence or information from a person or property in a criminal 31
investigation unless either of the following occurs: 32

(1) The law enforcement officer first obtains a search 33
warrant based on probable cause under section 2933.22 of the 34
Revised Code or Criminal Rule 41 that authorizes the use of the 35
drone and the drone is used in accordance with the authorization 36
specified in the warrant. An application for a search warrant to 37
use a drone shall specify the target of the criminal 38
investigation and the offense or offenses with respect to which 39
the drone will be used and the warrant is requested. 40

(2) Both of the following apply: 41

(a) The law enforcement officer has reasonable suspicion 42
of the commission of a crime in which the circumstances would 43
warrant swift action to prevent immediate danger of death or 44
serious physical injury to an individual and the use of the 45

drone in the situation is needed without delay. 46

(b) A warrant cannot be obtained with due diligence in 47
time to prevent the immediate danger of death or serious 48
physical injury, and the law enforcement officer believes, in 49
good faith, that it requires the drone use for this prevention. 50

Not later than forty-eight hours after the use of a drone 51
without a warrant under division (B) (2) of this section, the law 52
enforcement officer who engaged in the use of the drone shall 53
file with the appropriate court of common pleas an application 54
for the use of the drone. The application shall consist of a 55
written statement setting forth the facts giving rise to the 56
emergency circumstances warranting swift action in order to 57
prevent immediate danger of death or serious physical injury to 58
a person. If, for any reason, the application is denied by the 59
court of common pleas, the information collected by the use of 60
the drone shall be treated as being obtained in violation of 61
this section, and an inventory of that information shall be 62
served on the person named in the application. 63

(C) If a law enforcement officer obtains a search warrant 64
based on probable cause in accordance with division (B) (1) of 65
this section, the court shall limit the search warrant to a 66
period not to exceed forty-eight hours. The court may grant 67
extensions, but in no case shall an extension be longer than the 68
issuing judge determines necessary to achieve the purposes for 69
which it was granted. No extension shall be granted for more 70
than thirty days. 71

(D) A law enforcement officer may use a drone without 72
complying with division (B) of this section for crime scene or 73
traffic accident scene video or photography. The use of drones 74
in these instances must be conducted in a geographically 75

confined area and in a time-limited manner to document specific 76
occurrences. 77

(E) A law enforcement officer may use a drone without 78
complying with division (B) of this section to locate missing 79
persons whose physical or mental state is such that not locating 80
them would cause serious risk of physical injury or death, as 81
long as the use of the drone does not constitute a criminal 82
investigation. 83

(F) Evidence collected in violation of division (B) of 84
this section is inadmissible in any criminal proceeding. With 85
respect to evidence collected in compliance with this section, 86
nothing in this section shall be construed to limit a court from 87
independently ruling on the admissibility of evidence collected 88
from drones by a law enforcement officer for compliance with 89
provisions of the United States and Ohio Constitutions. 90

(G) A law enforcement officer operating a drone in 91
accordance with division (B) of this section shall operate it in 92
a manner so as to collect information about the target and to 93
avoid collection of information about individuals other than the 94
target or about homes or property other than those of the 95
target. A law enforcement officer operating a drone in 96
accordance with division (D) or (E) of this section shall 97
operate it in a manner so as to avoid collection of information 98
other than as necessary with respect to the crime scene or 99
traffic accident scene or to locating the missing person. 100

(H) Any operation of a drone in this state in accordance 101
with division (B), (D), or (E) of this section shall comply with 102
all applicable federal aviation administration requirements and 103
guidelines. 104

(I) A law enforcement officer shall not operate a drone that is equipped with any kind of weapon. 105
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(J) Any person who is injured in any manner due to a violation of this section may file a civil action with the appropriate court of common pleas. In the action, the court may award compensatory damages, punitive or exemplary damages, and reasonable attorney's fees. 107
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(K) If a law enforcement officer uses a drone in accordance with division (B), (D), or (E) of this section, the law enforcement agency served by the officer shall destroy all information gathered within thirty days after the information is collected unless either of the following applies: 112
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(1) There is reasonable suspicion that the information contains evidence of criminal activity. 117
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(2) The information is relevant to an ongoing criminal investigation or pending criminal trial. 119
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(L) Except as otherwise provided in this division, a law enforcement agency that uses a drone in this state in accordance with division (B) of this section shall give notice to the drone's target of the information that was collected by the drone not later than forty-eight hours after the information is collected. A law enforcement agency may request the court of common pleas that issues a warrant under division (B) of this section to issue an order along with the warrant delaying the notification for a period not to exceed ninety days. The court shall issue the order if the court determines that there is reason to believe that notification would result in an adverse result involving any of the following: 121
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(1) Endangering the life or physical safety of another 133

<u>person;</u>	134
<u>(2) Flight from prosecution;</u>	135
<u>(3) The destruction of or tampering with evidence;</u>	136
<u>(4) The intimidation of potential witnesses;</u>	137
<u>(5) Otherwise seriously jeopardizing an investigation or</u> <u>unduly delaying a trial.</u>	138 139
<u>If the court issues an order delaying notification, the</u> <u>law enforcement agency may delay the notice to the target in</u> <u>accordance with the provisions of that order.</u>	140 141 142
<u>Sec. 2933.68. (A) No information that is collected by a</u> <u>law enforcement officer through use of a drone under division</u> <u>(B) of section 2933.67 of the Revised Code about an individual</u> <u>other than the target or about a home or property other than</u> <u>those of the target may be used, copied, or disclosed for any</u> <u>purpose. Any such information shall be deleted as soon as</u> <u>possible and in no event later than twenty-four hours after the</u> <u>information is collected.</u>	143 144 145 146 147 148 149 150
<u>(B) No information collected and no evidence derived from</u> <u>information collected by a drone may be received in evidence in</u> <u>any trial, hearing, or other proceeding in or before any court,</u> <u>grand jury, department, officer, agency, regulatory body,</u> <u>legislative committee, or other authority of the state or of a</u> <u>political subdivision if the information was used, copied,</u> <u>disclosed, or retained in violation of division (A) of this</u> <u>section.</u>	151 152 153 154 155 156 157 158
<u>Sec. 2933.69. (A) A law enforcement agency that is served</u> <u>by a particular law enforcement officer promptly shall initiate</u> <u>a proceeding to determine whether disciplinary action against</u>	159 160 161

the officer by the agency is warranted if both of the following 162
apply: 163

(1) A court or the law enforcement agency determines that 164
the officer has violated any provision of section 2933.67 or 165
2933.68 of the Revised Code and the court or agency finds that 166
the officer acted recklessly with respect to the violation. 167

(2) The law enforcement agency has received a true and 168
correct copy of the decision and findings of the court described 169
in division (A) (1) of this section or has made a written 170
determination of the decision and findings that it made as 171
described in that division. 172

(B) When a law enforcement agency is required by division 173
(A) of this section to initiate a proceeding under that division 174
with respect to a law enforcement officer who serves the agency, 175
the head of the agency shall determine whether disciplinary 176
action against the officer is warranted. Upon making that 177
determination, the head of the agency shall notify the attorney 178
general and provide the attorney general with the reasons for 179
the determination. 180

Sec. 2933.70. (A) Not later than the last day of January 181
of each year, each law enforcement agency that, pursuant to 182
division (B), (D), or (E) of section 2933.67 of the Revised 183
Code, used or had used on its behalf a drone during the 184
immediately preceding twelve months shall report to the attorney 185
general, and make public on its internet web site, all of the 186
following information: 187

(1) The number of times a drone was used by or on behalf 188
of the agency, organized by the types of incidents and the 189
justification for each deployment; 190

(2) The number of criminal investigations that were aided 191
by the use of drones by or on behalf of the agency, including a 192
description of how the drone was of assistance to each 193
investigation; 194

(3) The number of times drones were used by or on behalf 195
of the agency for reasons other than criminal investigations, 196
including a description of how the drone was of assistance in 197
each instance; 198

(4) The frequency and type of data collected through the 199
use of a drone by or on behalf of the agency about individuals 200
other than the target or about a home or property other than 201
those of the target; 202

(5) The total cost to the agency of its drone program. 203

(B) Not later than the last day of January of each year, 204
each judge who issued a warrant for the use of a drone under 205
section 2933.67 of the Revised Code or an extension of a warrant 206
under that section that expired during the preceding calendar 207
year, or who denied issuance of such a warrant or extension 208
during that calendar year, shall submit to the attorney general 209
a report that contains all of the following: 210

(1) The fact that a warrant or extension was applied for; 211

(2) The kind of warrant or extension that was applied for; 212

(3) The fact that the warrant or extension was granted as 213
applied for, was modified, or was denied; 214

(4) The period of drone use authorized by the warrant and 215
the number and duration of any extensions of the warrant that 216
were issued; 217

(5) The offense or offenses specified in the warrant or 218

<u>the extension of a warrant;</u>	219
<u>(6) The name of the law enforcement officer who applied</u>	220
<u>for the warrant and the name of the person who authorized the</u>	221
<u>application;</u>	222
<u>(7) In the absence of a warrant, the number of</u>	223
<u>applications subsequently filed under division (B) (2) of section</u>	224
<u>2933.67 of the Revised Code, the period of time stated on each</u>	225
<u>application, the offense or offenses stated in each application,</u>	226
<u>the name of the law enforcement officer who submitted each</u>	227
<u>application, and the number of applications that were denied.</u>	228
<u>(C) (1) Not later than the last day of June of each year,</u>	229
<u>the attorney general shall compile a report that contains all of</u>	230
<u>the following:</u>	231
<u>(a) The information described in division (B) of this</u>	232
<u>section with respect to each application for a warrant or</u>	233
<u>extension of a warrant, and to each application in the absence</u>	234
<u>of a warrant, made during the preceding calendar year;</u>	235
<u>(b) A general description of the information gathered</u>	236
<u>under warrants or extensions or gathered in the absence of a</u>	237
<u>warrant under an application referenced in division (C) (1) (a) of</u>	238
<u>this section, including all of the following:</u>	239
<u>(i) The approximate nature and frequency of incriminating</u>	240
<u>conduct regarding which information was gathered;</u>	241
<u>(ii) The approximate number of persons regarding whom</u>	242
<u>information was gathered;</u>	243
<u>(iii) The approximate nature, amount, and cost of the</u>	244
<u>manpower and other resources used in the collection of</u>	245
<u>information.</u>	246

<u>(c) The number of arrests resulting from the information</u>	247
<u>and the offenses for which arrests were made;</u>	248
<u>(d) The number of trials resulting from the information;</u>	249
<u>(e) The number of motions to suppress made with respect to</u>	250
<u>the information, and the number of those motions that were</u>	251
<u>granted or denied;</u>	252
<u>(f) The number of convictions resulting from the</u>	253
<u>information and the offenses for which the convictions were</u>	254
<u>obtained;</u>	255
<u>(g) A general assessment of the importance of the</u>	256
<u>information;</u>	257
<u>(h) A summary and analysis of the data described in</u>	258
<u>divisions (A) and (B) of this section.</u>	259
<u>(2) Not later than the last day of June of each year, the</u>	260
<u>attorney general shall transmit to the president and minority</u>	261
<u>leader of the senate and the speaker and minority leader of the</u>	262
<u>house of representatives, and shall post on the internet web</u>	263
<u>site of the attorney general, the report described in division</u>	264
<u>(C) (1) of this section.</u>	265