

I_135_0378-3

135th General Assembly
Regular Session
2023-2024

Sub. H. B. No. 149

A BILL

To enact sections 4561.60, 4561.61, 4561.62,
4561.63, 4561.64, and 4561.65 of the Revised
Code to establish requirements related to the
use of an unmanned aerial vehicle by law
enforcement.

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

Section 1. That sections 4561.60, 4561.61, 4561.62,
4561.63, 4561.64, and 4561.65 of the Revised Code be enacted to
read as follows:

Sec. 4561.60. As used in sections 4561.60 to 4561.65 of
the Revised Code:

(A) "Surveillance data" means the data collected by an
unmanned aerial vehicle during its flight, including images,
videos, or other forms of observation recording.

(B) "Flight data" means the data pertaining to an unmanned
aerial vehicle's flight from both the original plan for the
flight and the actual flight that was taken, including the
flight's duration, path, and mission objectives.



(C) "Law enforcement agency" means a government entity 18
that employs peace officers to perform law enforcement duties. 19

(D) "Peace officer" has the same meaning as in section 20
2935.01 of the Revised Code. 21

(E) "Unmanned aerial vehicle" means a powered, aerial 22
vehicle to which all of the following apply: 23

(1) The vehicle does not carry a human operator and is 24
operated without the possibility of direct human intervention 25
from within or on the vehicle. 26

(2) The vehicle uses aerodynamic forces to provide lift. 27

(3) The vehicle can fly autonomously or be piloted 28
remotely. 29

(4) The vehicle is either expendable or recoverable. 30

"Unmanned aerial vehicle" is commonly referred to as a 31
drone and does not include a satellite. 32

(F) "Unmanned aerial vehicle system" means an unmanned 33
aerial vehicle and associated elements, including communication 34
links and components that control the unmanned aerial vehicle 35
and that are required for the remote pilot in command to operate 36
the vehicle in the air space over this state. 37

Sec. 4561.61. (A) If a peace officer would otherwise be 38
required to obtain a search warrant to physically enter a house 39
or a place in person to conduct a search, the peace officer or 40
applicable law enforcement agency shall obtain a search warrant 41
to do either of the following to collect surveillance data 42
concerning the house or place in lieu of the in-person search: 43

(1) Enter the interior of the house or place through the 44

use of an unmanned aerial vehicle system; 45

(2) Observe the interior of the house or place through the 46
use of an unmanned aerial vehicle system. 47

(B)(1) Except as provided in division (B)(2) of this 48
section, surveillance data, and any information obtained through 49
that data, is not admissible in a criminal proceeding if it was 50
gathered under circumstances that require a search warrant under 51
division (A) of this section and a search warrant was not 52
obtained by either the peace officer or the law enforcement 53
agency. 54

(2) Surveillance data, and any information obtained 55
through that data, that was gathered under the circumstances 56
specified in section 4561.63 of the Revised Code may be admitted 57
in a criminal proceeding without a peace officer or law 58
enforcement agency obtaining a search warrant. 59

Sec. 4561.62. (A) A judge or magistrate that receives an 60
affidavit for a search warrant from a peace officer or law 61
enforcement agency for the use of an unmanned aerial vehicle 62
shall comply with the requirements of the United States 63
Constitution, the Ohio Constitution, the Revised Code, including 64
Chapter 2933. of the Revised Code, and any other applicable law. 65
Additionally, the court shall require the affidavit for the 66
search warrant to include the following information: 67

(1) The individuals who will have the power to authorize 68
the use of the unmanned aerial vehicle system; 69

(2) The locations where the unmanned aerial vehicle system 70
will operate; 71

(3) The maximum period that the unmanned aerial vehicle 72
system will operate for each flight; 73

(4) Whether the unmanned aerial vehicle system will 74
collect surveillance data and related information about 75
individuals or groups of individuals. 76

(B) If an affidavit for a search warrant indicates that an 77
unmanned aerial vehicle system will collect information 78
specified in division (A) (4) of this section, the judge or 79
magistrate shall require the peace officer or law enforcement 80
agency to include all of the following additional information in 81
the application for the search warrant: 82

(1) The circumstances when the unmanned aerial vehicle 83
system will be used; 84

(2) The specific types of surveillance data and 85
information the officer or agency intends to collect about the 86
individual or individuals who are the subject of the search to 87
be conducted by the unmanned aerial vehicle system; 88

(3) How the data and information collected and any related 89
conclusions drawn from that data and information will be used, 90
disclosed, or otherwise handled; 91

(4) The period of time for which the data and information 92
will be retained; 93

(5) Whether the data and information will be destroyed, 94
and if so, when and how the information will be destroyed. 95

Sec. 4561.63. A law enforcement agency may use an unmanned 96
aerial vehicle for surveillance without a search warrant as 97
follows: 98

(A) To patrol within twenty-five miles of a national 99
border for purposes of policing that border to prevent or deter 100
the illegal entry of any individual, illegal substance, or 101

<u>contraband;</u>	102
<u>(B) When exigent circumstances exist and the agency</u>	103
<u>reasonably suspects that absent swift, preventative action,</u>	104
<u>there is an imminent danger to the life of an individual or</u>	105
<u>bodily harm to an individual;</u>	106
<u>(C) Before, during, or immediately after an environmental</u>	107
<u>or weather-related catastrophe to allow the agency to better</u>	108
<u>preserve public safety, to protect property, to survey</u>	109
<u>environmental damage in order to determine if a state of</u>	110
<u>emergency should be declared, or to conduct surveillance for the</u>	111
<u>assessment and evaluation of damage, erosion, flood, or</u>	112
<u>contamination;</u>	113
<u>(D) To examine the scene of a vehicle accident, monitor</u>	114
<u>traffic congestion, or conduct other forms of traffic law</u>	115
<u>enforcement under Chapter 4511. or 4513. of the Revised Code or</u>	116
<u>an equivalent municipal ordinance that does not require a peace</u>	117
<u>officer to obtain a search warrant in advance of conducting such</u>	118
<u>enforcement;</u>	119
<u>(E) To photograph and record evidence at a crime scene;</u>	120
<u>(F) For research, education, training, testing, or</u>	121
<u>development efforts related to unmanned aerial vehicles or</u>	122
<u>unmanned aerial vehicle systems, their technologies, and their</u>	123
<u>potential applications, undertaken by or in conjunction with a</u>	124
<u>school, an institution of higher education, or a public or</u>	125
<u>private collaborator.</u>	126
Sec. 4561.64. <u>(A) A law enforcement agency shall not use,</u>	127
<u>authorize the use of, or issue a permit for the use of, an</u>	128
<u>unmanned aerial vehicle armed with any lethal weapon.</u>	129
<u>(B) A law enforcement agency shall not authorize the use</u>	130

of or issue a permit for the use of an unmanned aerial vehicle 131
for the surveillance of one private individual by another 132
private individual unless the agency obtains one of the 133
following: 134

(1) The express, informed consent of the individual being 135
surveilled by the unmanned aerial vehicle; 136

(2) The express, informed consent of the owner of the real 137
property on which the individual being surveilled by the 138
unmanned aerial vehicle is present. 139

Sec. 4561.65. (A) A law enforcement agency shall do both 140
of the following relative to its use of unmanned aerial 141
vehicles: 142

(1) Ensure that the agency and any applicable peace 143
officer employed by the agency documents all flight data for 144
each surveillance flight of an unmanned aerial vehicle taken by 145
or on behalf of the agency; 146

(2) Verify that the flight data for each surveillance 147
flight is accurate and complete. 148

(B) (1) A law enforcement agency shall retain all 149
surveillance data and flight data for not less than two hundred 150
seventy days. 151

(2) A law enforcement agency shall retain any surveillance 152
data or flight data that is relevant to an ongoing 153
investigation, trial, or litigation until it is determined that 154
such data is no longer necessary for that purpose. 155

(C) (1) Except as provided by division (C) (2) of this 156
section, a person accused of a crime that includes evidence 157
gathered through the use of an unmanned aerial vehicle may 158

obtain, via the subpoena and discovery process available during 159
court proceedings, information relating to that person acquired 160
in the course of surveillance of that person by the unmanned 161
aerial vehicle. 162

(2) The operational capabilities of the unmanned aerial 163
vehicle and unmanned aerial vehicle system or other operational 164
information strictly related to the technical conduct and 165
physical security of the surveillance operation is not evidence 166
subject to subpoena or discovery under division (C)(1) of this 167
section. 168

(D) The flight data required and retained in accordance 169
with this section is a public record for purposes of section 170
149.43 of the Revised Code, unless the content of that flight 171
data qualifies for an exemption under that section. 172