

As Introduced

135th General Assembly

Regular Session

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H. B. No. 149

Representative Willis

Cosponsors: Representatives Plummer, Click, Seitz, Holmes, Miller, J., Dell'Aquila

A BILL

To enact sections 4561.60, 4561.61, 4561.62, 1
4561.63, 4561.64, and 4561.65 of the Revised 2
Code to establish requirements related to the 3
use of an uncrewed aerial vehicle for 4
surveillance. 5

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

Section 1. That sections 4561.60, 4561.61, 4561.62, 6
4561.63, 4561.64, and 4561.65 of the Revised Code be enacted to 7
read as follows: 8

Sec. 4561.60. As used in sections 4561.60 to 4561.65 of 9
the Revised Code: 10

(A) "Flight data" means the data collected by an uncrewed 11
aerial vehicle during its flight, including images, videos, or 12
other forms of observation recording. 13

(B) "Flight logistics" means the data pertaining to an 14
uncrewed aerial vehicle's flight, including the flight's 15
duration, path, and mission objectives. 16

(C) "Law enforcement agency" means a government entity 17

that employs peace officers to perform law enforcement duties. 18

(D) "Peace officer" has the same meaning as in section 19
2921.51 of the Revised Code. 20

(E) "Uncrewed aerial vehicle" means a powered, aerial 21
vehicle to which all of the following apply: 22

(1) The vehicle does not carry a human operator and is 23
operated without the possibility of direct human intervention 24
from within or on the vehicle. 25

(2) The vehicle uses aerodynamic forces to provide lift. 26

(3) The vehicle can fly autonomously or be piloted 27
remotely. 28

(4) The vehicle is either expendable or recoverable. 29

"Uncrewed aerial vehicle" is commonly referred to as a 30
drone and does not include a satellite. 31

(F) "Uncrewed aerial vehicle system" means an uncrewed 32
aerial vehicle and associated elements, including communication 33
links and components that control the uncrewed aerial vehicle 34
and that are required for the remote pilot in command to operate 35
the vehicle in the air space over this state. 36

Sec. 4561.61. (A) Flight data and any information obtained 37
through that data is not admissible in a criminal proceeding 38
unless the data and the information was obtained as follows: 39

(1) Pursuant to the authority granted under a properly 40
issued search warrant; 41

(2) Under exigent circumstances that constitute an 42
exception to the general search warrant requirement. 43

(B) Flight data and any information obtained through that 44

data may not be used in an affidavit to obtain a search warrant 45
unless one of the following apply: 46

(1) The data or information was obtained under a 47
previously issued search warrant or the use of the uncrewed 48
aerial vehicle that obtained the data or information operated 49
under exigent circumstances as specified under division (A) (2) 50
of this section. 51

(2) The data or information was obtained during the 52
monitoring of public lands or international borders. 53

Sec. 4561.62. (A) A judge or magistrate that receives an 54
affidavit for a search warrant from a law enforcement agency for 55
the use of an uncrewed aerial vehicle shall comply with the 56
requirements of the United States Constitution, the Ohio 57
Constitution, the Revised Code, including Chapter 2933. of the 58
Revised Code, and any other applicable law. Additionally, the 59
court shall require the affidavit for the search warrant to 60
include the following information: 61

(1) The individuals who will have the power to authorize 62
the use of the uncrewed aerial vehicle system; 63

(2) The locations where the uncrewed aerial vehicle system 64
will operate; 65

(3) The maximum period that the uncrewed aerial vehicle 66
system will operate for each flight; 67

(4) Whether the uncrewed aerial vehicle system will 68
collect flight data and related information about individuals or 69
groups of individuals. 70

(B) If an affidavit for a search warrant indicates that an 71
uncrewed aerial vehicle system will collect information 72

specified in division (A)(4) of this section, the judge or 73
magistrate shall require the law enforcement agency to include 74
all of the following additional information in the application 75
for the search warrant: 76

(1) The circumstances when the uncrewed aerial vehicle 77
system will be used; 78

(2) The specific types of flight data and information the 79
agency intends to collect about the individual or individuals 80
who are the subject of the search to be conducted by the 81
uncrewed aerial vehicle system; 82

(3) How the data and information collected and any related 83
conclusions drawn from that data and information will be used, 84
disclosed, or otherwise handled; 85

(4) The period of time for which the data and information 86
will be retained; 87

(5) Whether the data and information will be destroyed, 88
and if so, when and how the information will be destroyed. 89

Sec. 4561.63. A law enforcement agency may use an uncrewed 90
aerial vehicle for surveillance without a search warrant as 91
follows: 92

(A) To patrol within twenty-five miles of a national 93
border for purposes of policing that border to prevent or deter 94
the illegal entry of any individual, illegal substance, or 95
contraband; 96

(B) When exigent circumstances exist and the agency 97
reasonably suspects that absent swift, preventative action, 98
there is an imminent danger to the life of an individual or 99
bodily harm to an individual; 100

(C) During or immediately after an environmental or 101
weather-related catastrophe to allow the agency to better 102
preserve public safety, to protect property, to survey 103
environmental damage in order to determine if a state of 104
emergency should be declared, or to conduct surveillance for the 105
assessment and evaluation of damage, erosion, flood, or 106
contamination; 107

(D) For research, education, training, testing, or 108
development efforts related to uncrewed aerial vehicles or 109
uncrewed aerial vehicle systems, their technologies, and their 110
potential applications, undertaken by or in conjunction with a 111
school, an institution of higher education, or a public or 112
private collaborator. 113

Sec. 4561.64. (A) A law enforcement agency shall not use, 114
authorize the use of, or issue a permit for the use of, an 115
uncrewed aerial vehicle armed with any lethal weapon. 116

(B) A law enforcement agency shall not authorize the use 117
of or issue a permit for the use of an uncrewed aerial vehicle 118
for the surveillance of one private individual by another 119
private individual unless the agency obtains one of the 120
following: 121

(1) The express, informed consent of the individual being 122
surveilled by the uncrewed aerial vehicle; 123

(2) The express, informed consent of the owner of the real 124
property on which the individual being surveilled by the 125
uncrewed aerial vehicle is present. 126

(C) A law enforcement agency shall not use, authorize the 127
use of, or issue a permit for the use of, an uncrewed aerial 128
vehicle in order to conduct surveillance of individuals who are 129

lawfully exercising their constitutional rights, unless that 130
surveillance is otherwise authorized under sections 4561.60 to 131
4561.65 of the Revised Code. 132

Sec. 4561.65. (A) A law enforcement agency shall do all of 133
the following relative to its use of uncrewed aerial vehicles: 134

(1) Ensure that the agency and any applicable peace 135
officer employed by the agency documents all flight logistics 136
for each surveillance flight of an uncrewed aerial vehicle taken 137
by or on behalf of the agency; 138

(2) Verify that the flight logistics for each surveillance 139
flight is accurate and complete; 140

(3) Retain the flight logistics for not less than five 141
years. 142

(B) A law enforcement agency shall retain all flight data 143
for not more than ninety days unless one of the following 144
applies: 145

(1) The data is relevant to an ongoing investigation or 146
trial. 147

(2) The data is accompanied by a written statement that 148
articulates a reasonable suspicion that the data contains 149
evidence of a crime. 150

(C) (1) Except as provided by division (C) (2) of this 151
section, a person accused of a crime that includes evidence 152
gathered through the use of an uncrewed aerial vehicle may 153
obtain, via the subpoena and discovery process available during 154
court proceedings, information relating to that person acquired 155
in the course of surveillance of that person by the uncrewed 156
aerial vehicle. 157

(2) The operational capabilities of the uncrewed aerial 158
vehicle and uncrewed aerial vehicle system or other operational 159
information strictly related to the technical conduct and 160
physical security of the surveillance operation is not evidence 161
subject to subpoena or discovery under division (C)(1) of this 162
section. 163

(D) The flight logistics required and retained in 164
accordance with this section are a public record for purposes of 165
section 149.43 of the Revised Code, unless the content of those 166
flight logistics qualify for an exemption under that section. 167