



Sen. Linda Holmes

Filed: 5/24/2023

10300HB3902sam001

LRB103 31058 JDS 62443 a

1 AMENDMENT TO HOUSE BILL 3902

2 AMENDMENT NO. _____. Amend House Bill 3902 by replacing
3 everything after the enacting clause with the following:

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

1 other information gathered by a drone.

2 "Law enforcement agency" means any agency of this State or
3 a political subdivision of this State which is vested by law
4 with the duty to maintain public order and to enforce criminal
5 laws.

6 "Parade" means a march, procession, or other similar
7 activity consisting of persons, animals, vehicles, or things,
8 or any combination thereof, upon a public street, sidewalk,
9 alley, or other public place, which requires a street closing
10 or otherwise requires stopping or rerouting vehicular traffic
11 because the parade will not or cannot comply with normal and
12 usual traffic regulations or controls. "Parade" does not
13 include a political protest, march, demonstration, or other
14 assembly protected by the First Amendment.

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

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

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

19 (3) has an estimated attendance of more than 50
20 people.

21 "Routed event" does not include any political protest,
22 march, demonstration, or other assembly protected by the First
23 Amendment.

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

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

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

2 (3) has an estimated attendance of:

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

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

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

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

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

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

17 (725 ILCS 167/15)

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

20 (1) To counter a high risk of a terrorist attack by a
21 specific individual or organization if the United States
22 Secretary of Homeland Security determines that credible
23 intelligence indicates that there is that risk.

24 (2) If a law enforcement agency first obtains a search
25 warrant based on probable cause issued under Section 108-3

1 of the Code of Criminal Procedure of 1963. The warrant
2 must be limited to a period of 45 days, renewable by the
3 judge upon a showing of good cause for subsequent periods
4 of 45 days.

5 (3) If a law enforcement agency possesses reasonable
6 suspicion that, under particular circumstances, swift
7 action is needed to prevent imminent harm to life, or to
8 forestall the imminent escape of a suspect or the
9 destruction of evidence. The use of a drone under this
10 paragraph (3) is limited to a period of 48 hours. Within 24
11 hours of the initiation of the use of a drone under this
12 paragraph (3), the chief executive officer of the law
13 enforcement agency must report in writing the use of a
14 drone to the local State's Attorney.

15 (4) If a law enforcement agency is not undertaking a
16 criminal investigation but is attempting to locate a
17 missing person, engaging in search and rescue operations,
18 or aiding a person who cannot otherwise be safely reached,
19 ~~and is not also undertaking a criminal investigation.~~

20 (5) If a law enforcement agency is using a drone
21 solely for crime scene and traffic crash scene
22 photography. Crime scene and traffic crash photography
23 must be conducted in a geographically confined and
24 time-limited manner to document specific occurrences. The
25 use of a drone under this paragraph (5) on private
26 property requires either a search warrant based on

1 probable cause under Section 108-3 of the Code of Criminal
2 Procedure of 1963 or lawful consent to search. The use of a
3 drone under this paragraph (5) on lands, highways,
4 roadways, or areas belonging to this State or political
5 subdivisions of this State does not require a search
6 warrant or consent to search. Any law enforcement agency
7 operating a drone under this paragraph (5) shall make
8 every reasonable attempt to only photograph the crime
9 scene or traffic crash scene and avoid other areas.

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

25 (7) To conduct an infrastructure inspection of a
26 designated building or structure at the express request of

1 a local government agency. Any law enforcement agency
2 operating a drone under this paragraph (7) shall make
3 every reasonable attempt to photograph only the building
4 or structure and to avoid other areas.

5 (8) To demonstrate the capabilities and functionality
6 of a police drone for public relations purposes, provided
7 that no information is collected or recorded by the drone
8 during such demonstration.

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

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

21 (A) notice is posted at the event location for at
22 least 24 hours before the event and clearly
23 communicates that drones may be used at the upcoming
24 event for the purpose of real-time monitoring of
25 participant safety;

26 (B) notice is posted, if practical, at major entry

1 points to the event clearly informing the attendees
2 that a drone may be used for the purpose of real-time
3 monitoring of participant safety; and

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

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

8 (i) in advance of an event, before event
9 participants have begun to assemble, for the sole
10 purpose of creating maps and determining appropriate
11 access routes, staging areas, and traffic routes,
12 provided that no personal identifying information is
13 recorded and provided further that no recorded
14 information is used in any criminal prosecution; or

15 (ii) during the event to proactively support
16 public safety personnel by monitoring the event
17 footprint in real time:

18 (I) to detect a breach of event space,
19 including a breach by an unauthorized vehicle, an
20 interruption of a parade route, or a breach of an
21 event barricade or fencing;

22 (II) to evaluate crowd size and density;

23 (III) to identify activity that could present
24 a public safety issue for the crowd as a whole,
25 including crowd movement;

26 (IV) to assist in the response of public

1 safety personnel to a real-time public safety
2 incident at the event; and
3 (V) to assess the traffic and pedestrian flow
4 around the event in real time.

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

6 (725 ILCS 167/17 new)

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

22 (725 ILCS 167/18 new)

23 Sec. 18. Use of weapons. A law enforcement agency
24 operating a drone under this Act is prohibited from equipping

1 or using on a drone any firearm, weaponized laser, kinetic
2 impact projectile, chemical agent or irritant, or any other
3 lethal or non-lethal weapon.

4 (725 ILCS 167/20)

5 Sec. 20. Information retention.

6 (a) If a law enforcement agency uses a drone under Section
7 15 of this Act, the agency ~~within 30 days~~ shall destroy all
8 information gathered by the drone within the following
9 timeframes:

10 (1) All information gathered pursuant to paragraph
11 (1), (2), (3), (4), (5), (6), or (9) of Section 15 shall be
12 destroyed within 30 days after being gathered.

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

16 (3) All information gathered pursuant to paragraph (7)
17 of Section 15 shall be turned over to the requesting local
18 government agency as soon as practicable, and all gathered
19 information shall be destroyed immediately after the
20 information has been turned over.

21 (b) Notwithstanding subsection (a), ~~except that~~ a
22 supervisor at a law enforcement ~~that~~ agency may retain
23 particular information if:

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

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

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

7 (4) the information consists of only flight path data,
8 metadata, or telemetry information of the drone.

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

10 (725 ILCS 167/25)

11 Sec. 25. Information disclosure.

12 (a) If a law enforcement agency uses a drone under Section
13 15 of this Act, the agency shall not disclose any information
14 gathered by the drone, except that a supervisor of that agency
15 may disclose particular information to another governmental
16 ~~government~~ agency, if (1) there is reasonable suspicion that
17 the information contains evidence of criminal activity, or (2)
18 the information is relevant to an ongoing investigation or
19 pending criminal trial.

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

24 (c) A law enforcement agency that uses a drone under
25 Section 15 shall neither sell any information gathered by the

1 drone nor disclose any information gathered by the drone to
2 any person to whom disclosure is not authorized under this
3 Section.

4 (d) Nothing in this Act prevents the disclosure of
5 information through a court order or subpoena in connection
6 with a criminal proceeding or if the disclosure is in regard to
7 a completed traffic crash investigation.

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

9 (725 ILCS 167/35)

10 Sec. 35. Reporting.

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

21 (b) On July 1 of each year, the Authority shall publish on
22 its publicly available website a concise report that lists
23 every law enforcement agency that owns a drone, and for each of
24 those agencies, the number of drones that it owns, the number
25 of times a drone was used pursuant to each paragraph of Section

1 15, including the date of use, time of use, reason for use,
2 location, whether video was recorded, whether the video is
3 designated for retention for training purposes. The report
4 shall contain a copy of the agency's latest policy concerning
5 drones as of the most recent April 1.

6 (c) Each law enforcement agency that uses a drone shall
7 implement and make publicly available on its website the law
8 enforcement agency's policy governing the operation, use,
9 administration, and oversight of its drone program.

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

11 (725 ILCS 167/45 new)

12 Sec. 45. Policy; violations.

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

25 (b) The Attorney General shall have authority to conduct

1 investigations into patterns and practices of violations of
2 this Act. The Attorney General may:

3 (1) require a law enforcement agency, law enforcement
4 official, or any other person or entity to file a
5 statement or report in writing under oath or otherwise, as
6 to all information the Attorney General may consider
7 necessary;

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

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

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

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

1 (d) Upon entry of an adverse judgment under this Act
2 demonstrating a pattern or practice of violations of this Act,
3 a law enforcement agency shall forfeit its ability to use
4 drones under Section 15 of this Act for not less than 6 months
5 for a first adverse judgment and up to one year for a second
6 adverse judgment demonstrating a pattern or practice of
7 violating this Act.

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

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

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.".