

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 Freedom from Drone Surveillance Act.

6 Section 5. Definitions. As used in this Act:

7 "Authority" means the Illinois Criminal Justice
8 Information Authority.

9 "Drone" means any aerial vehicle that does not carry a
10 human operator.

11 "Information" means any evidence, images, sounds, data, or
12 other information gathered by a drone.

13 "Law enforcement agency" means any agency of this State or
14 a political subdivision of this State which is vested by law
15 with the duty to maintain public order and to enforce criminal
16 laws.

17 Section 10. Prohibited use of drones. Except as provided
18 in Section 15, a law enforcement agency may not use a drone to
19 gather information.

20 Section 15. Exceptions. This Act does not prohibit the use
21 of a drone by a law enforcement agency:

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

5 (2) If a law enforcement agency first obtains a search
6 warrant based on probable cause issued under Section 108-3 of
7 the Code of Criminal Procedure of 1963. The warrant must be
8 limited to a period of 45 days, renewable by the judge upon a
9 showing of good cause for subsequent periods of 45 days.

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

19 (4) If a law enforcement agency is attempting to locate a
20 missing person, and is not also undertaking a criminal
21 investigation.

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

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

11 Section 20. Information retention. If a law enforcement
12 agency uses a drone under Section 15 of this Act, the agency
13 within 30 days shall destroy all information gathered by the
14 drone, except that a supervisor at that agency may retain
15 particular information if:

16 (1) there is reasonable suspicion that the information
17 contains evidence of criminal activity, or

18 (2) the information is relevant to an ongoing investigation
19 or pending criminal trial.

20 Section 25. Information disclosure. If a law enforcement
21 agency uses a drone under Section 15 of this Act, the agency
22 shall not disclose any information gathered by the drone,
23 except that a supervisor of that agency may disclose particular
24 information to another government agency, if (1) there is

1 reasonable suspicion that the information contains evidence of
2 criminal activity, or (2) the information is relevant to an
3 ongoing investigation or pending criminal trial.

4 Section 30. Admissibility. If the court finds by a
5 preponderance of the evidence that a law enforcement agency
6 used a drone to gather information in violation of the
7 information gathering limits in Sections 10 and 15 of this Act,
8 then the information shall be presumed to be inadmissible in
9 any judicial or administrative proceeding. The State may
10 overcome this presumption by proving the applicability of a
11 judicially recognized exception to the exclusionary rule of the
12 Fourth Amendment to the U.S. Constitution or Article I, Section
13 6 of the Illinois Constitution to the information. Nothing in
14 this Act shall be deemed to prevent a court from independently
15 reviewing the admissibility of the information for compliance
16 with the aforementioned provisions of the U.S. and Illinois
17 Constitutions.

18 Section 35. Reporting.

19 (a) If a law enforcement agency owns one or more drones,
20 then subsequent to the effective date of this Act, it shall
21 report in writing annually by April 1 to the Authority the
22 number of drones that it owns.

23 (b) On July 1 of each year, the Authority shall publish on
24 its publicly available website a concise report that lists

1 every law enforcement agency that owns a drone, and for each of
2 those agencies, the number of drones that it owns.