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**CRIMINAL PROCEDURE  
(725 ILCS 167/) Freedom from Drone Surveillance Act.**

(725 ILCS 167/1)

Sec. 1. Short title. This Act may be cited as the Freedom from Drone Surveillance Act.

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

(725 ILCS 167/5)

Sec. 5. Definitions. As used in this Act:

"Authority" means the Illinois Criminal Justice Information Authority.

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

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

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

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

(725 ILCS 167/10)

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

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

(725 ILCS 167/15)

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

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

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

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

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

(5) If a law enforcement agency is using a drone solely for crime scene and traffic crash scene photography. Crime scene and traffic crash photography must be conducted in a geographically confined and time-limited manner to document specific occurrences. The use of a drone under this paragraph (5) on private property requires either a search warrant based on probable cause under Section 108-3 of the Code of Criminal Procedure of 1963 or lawful consent to search. The use of a drone under this paragraph (5) on lands, highways, roadways, or areas belonging to this State or political subdivisions of this State does not require a search warrant or consent to search. Any law enforcement agency operating a drone under this paragraph (5) shall make every reasonable attempt to only photograph the crime scene or traffic crash scene and avoid other areas.

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

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

(725 ILCS 167/20)

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

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

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

(725 ILCS 167/25)

Sec. 25. Information disclosure. If a law enforcement agency uses a drone under Section 15 of this Act, the agency shall not disclose any information gathered by the drone, except that a supervisor of that agency may disclose particular information to another government agency, if (1) there is reasonable suspicion that the information contains evidence of criminal activity, or (2) the information is relevant to an ongoing investigation or pending criminal trial.

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

(725 ILCS 167/30)

Sec. 30. Admissibility. If the court finds by a preponderance of the evidence that a law enforcement agency used a drone to gather information in violation of the information gathering limits in Sections 10 and 15 of this Act, then the information shall be presumed to be inadmissible in any judicial or administrative proceeding. The State may overcome this presumption by proving the applicability of a judicially recognized exception to the exclusionary rule of the Fourth Amendment to the U.S. Constitution or Article I, Section 6 of

the Illinois Constitution to the information. Nothing in this Act shall be deemed to prevent a court from independently reviewing the admissibility of the information for compliance with the aforementioned provisions of the U.S. and Illinois Constitutions.

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

(725 ILCS 167/35)

Sec. 35. Reporting.

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

(b) On July 1 of each year, the Authority shall publish on its publicly available website a concise report that lists every law enforcement agency that owns a drone, and for each of those agencies, the number of drones that it owns.

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

(725 ILCS 167/40)

Sec. 40. Law enforcement use of private drones.

(a) Except as provided in Section 15, a law enforcement agency may not acquire information from or direct the acquisition of information through the use of a drone owned by a private third party. In the event that law enforcement acquires information from or directs the acquisition of information through the use of a privately owned drone under Section 15 of this Act, any information so acquired is subject to Sections 20 and 25 of this Act.

(b) Nothing in this Act prohibits private third parties from voluntarily submitting information acquired by a privately owned drone to law enforcement. In the event that law enforcement acquires information from the voluntary submission of that information, whether under a request or on a private drone owner's initiative, the information is subject to Sections 20 and 25 of this Act.

(Source: P.A. 98-831, eff. 1-1-15.)