



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB5452

Introduced 1/31/2022, by Rep. Thaddeus Jones

#### SYNOPSIS AS INTRODUCED:

5 ILCS 140/7.5  
725 ILCS 167/5  
725 ILCS 167/15  
725 ILCS 167/20  
725 ILCS 167/25

Amend the Freedom from Drone Surveillance Act. Defines "emotionally disturbed person" and "special event". Deletes "data" from the definition of "information". Provides that "information" does not apply to circumstances in which the drone is used over publicly owned property or private property with permission when the purpose is training peace officers, public relations, conducting infrastructure inspections, or other similar non-law enforcement purposes. Permits the use of a drone by a law enforcement agency if the law enforcement agency is assisting an emotionally disturbed person, and is not also undertaking a criminal investigation. Permits the use of a drone by a law enforcement agency at a special event to prepare for or monitor crowd size, density, and movement; assess public safety staffing; or to monitor the safety of the participants. If the special event is occurring on private property, use of a drone for this exception shall be authorized by the owners or organizers prior to flight. Provides that a law enforcement agency may use a drone to respond to Public Safety Answering Point (PSAP) dispatched calls for service, when the primary purpose for the response is to locate or assist victims, or both, identify offenders, and to guide emergency response. Provides that information gathered by a drone is subject to the disclosure and exception to disclosure provisions of the Freedom of Information Act. Makes other changes. Amends the Freedom of Information Act to make conforming changes.

LRB102 25343 RLC 34620 b

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 5. The Freedom of Information Act is amended by  
5 changing Section 7.5 as follows:

6 (5 ILCS 140/7.5)

7 Sec. 7.5. Statutory exemptions. To the extent provided for  
8 by the statutes referenced below, the following shall be  
9 exempt from inspection and copying:

10 (a) All information determined to be confidential  
11 under Section 4002 of the Technology Advancement and  
12 Development Act.

13 (b) Library circulation and order records identifying  
14 library users with specific materials under the Library  
15 Records Confidentiality Act.

16 (c) Applications, related documents, and medical  
17 records received by the Experimental Organ Transplantation  
18 Procedures Board and any and all documents or other  
19 records prepared by the Experimental Organ Transplantation  
20 Procedures Board or its staff relating to applications it  
21 has received.

22 (d) Information and records held by the Department of  
23 Public Health and its authorized representatives relating

1 to known or suspected cases of sexually transmissible  
2 disease or any information the disclosure of which is  
3 restricted under the Illinois Sexually Transmissible  
4 Disease Control Act.

5 (e) Information the disclosure of which is exempted  
6 under Section 30 of the Radon Industry Licensing Act.

7 (f) Firm performance evaluations under Section 55 of  
8 the Architectural, Engineering, and Land Surveying  
9 Qualifications Based Selection Act.

10 (g) Information the disclosure of which is restricted  
11 and exempted under Section 50 of the Illinois Prepaid  
12 Tuition Act.

13 (h) Information the disclosure of which is exempted  
14 under the State Officials and Employees Ethics Act, and  
15 records of any lawfully created State or local inspector  
16 general's office that would be exempt if created or  
17 obtained by an Executive Inspector General's office under  
18 that Act.

19 (i) Information contained in a local emergency energy  
20 plan submitted to a municipality in accordance with a  
21 local emergency energy plan ordinance that is adopted  
22 under Section 11-21.5-5 of the Illinois Municipal Code.

23 (j) Information and data concerning the distribution  
24 of surcharge moneys collected and remitted by carriers  
25 under the Emergency Telephone System Act.

26 (k) Law enforcement officer identification information

1 or driver identification information compiled by a law  
2 enforcement agency or the Department of Transportation  
3 under Section 11-212 of the Illinois Vehicle Code.

4 (l) Records and information provided to a residential  
5 health care facility resident sexual assault and death  
6 review team or the Executive Council under the Abuse  
7 Prevention Review Team Act.

8 (m) Information provided to the predatory lending  
9 database created pursuant to Article 3 of the Residential  
10 Real Property Disclosure Act, except to the extent  
11 authorized under that Article.

12 (n) Defense budgets and petitions for certification of  
13 compensation and expenses for court appointed trial  
14 counsel as provided under Sections 10 and 15 of the  
15 Capital Crimes Litigation Act. This subsection (n) shall  
16 apply until the conclusion of the trial of the case, even  
17 if the prosecution chooses not to pursue the death penalty  
18 prior to trial or sentencing.

19 (o) Information that is prohibited from being  
20 disclosed under Section 4 of the Illinois Health and  
21 Hazardous Substances Registry Act.

22 (p) Security portions of system safety program plans,  
23 investigation reports, surveys, schedules, lists, data, or  
24 information compiled, collected, or prepared by or for the  
25 Department of Transportation under Sections 2705-300 and  
26 2705-616 of the Department of Transportation Law of the

1 Civil Administrative Code of Illinois, the Regional  
2 Transportation Authority under Section 2.11 of the  
3 Regional Transportation Authority Act, or the St. Clair  
4 County Transit District under the Bi-State Transit Safety  
5 Act.

6 (q) Information prohibited from being disclosed by the  
7 Personnel Record Review Act.

8 (r) Information prohibited from being disclosed by the  
9 Illinois School Student Records Act.

10 (s) Information the disclosure of which is restricted  
11 under Section 5-108 of the Public Utilities Act.

12 (t) All identified or deidentified health information  
13 in the form of health data or medical records contained  
14 in, stored in, submitted to, transferred by, or released  
15 from the Illinois Health Information Exchange, and  
16 identified or deidentified health information in the form  
17 of health data and medical records of the Illinois Health  
18 Information Exchange in the possession of the Illinois  
19 Health Information Exchange Office due to its  
20 administration of the Illinois Health Information  
21 Exchange. The terms "identified" and "deidentified" shall  
22 be given the same meaning as in the Health Insurance  
23 Portability and Accountability Act of 1996, Public Law  
24 104-191, or any subsequent amendments thereto, and any  
25 regulations promulgated thereunder.

26 (u) Records and information provided to an independent

1 team of experts under the Developmental Disability and  
2 Mental Health Safety Act (also known as Brian's Law).

3 (v) Names and information of people who have applied  
4 for or received Firearm Owner's Identification Cards under  
5 the Firearm Owners Identification Card Act or applied for  
6 or received a concealed carry license under the Firearm  
7 Concealed Carry Act, unless otherwise authorized by the  
8 Firearm Concealed Carry Act; and databases under the  
9 Firearm Concealed Carry Act, records of the Concealed  
10 Carry Licensing Review Board under the Firearm Concealed  
11 Carry Act, and law enforcement agency objections under the  
12 Firearm Concealed Carry Act.

13 (v-5) Records of the Firearm Owner's Identification  
14 Card Review Board that are exempted from disclosure under  
15 Section 10 of the Firearm Owners Identification Card Act.

16 (w) Personally identifiable information which is  
17 exempted from disclosure under subsection (g) of Section  
18 19.1 of the Toll Highway Act.

19 (x) Information which is exempted from disclosure  
20 under Section 5-1014.3 of the Counties Code or Section  
21 8-11-21 of the Illinois Municipal Code.

22 (y) Confidential information under the Adult  
23 Protective Services Act and its predecessor enabling  
24 statute, the Elder Abuse and Neglect Act, including  
25 information about the identity and administrative finding  
26 against any caregiver of a verified and substantiated

1 decision of abuse, neglect, or financial exploitation of  
2 an eligible adult maintained in the Registry established  
3 under Section 7.5 of the Adult Protective Services Act.

4 (z) Records and information provided to a fatality  
5 review team or the Illinois Fatality Review Team Advisory  
6 Council under Section 15 of the Adult Protective Services  
7 Act.

8 (aa) Information which is exempted from disclosure  
9 under Section 2.37 of the Wildlife Code.

10 (bb) Information which is or was prohibited from  
11 disclosure by the Juvenile Court Act of 1987.

12 (cc) Recordings made under the Law Enforcement  
13 Officer-Worn Body Camera Act, except to the extent  
14 authorized under that Act.

15 (dd) Information that is prohibited from being  
16 disclosed under Section 45 of the Condominium and Common  
17 Interest Community Ombudsperson Act.

18 (ee) Information that is exempted from disclosure  
19 under Section 30.1 of the Pharmacy Practice Act.

20 (ff) Information that is exempted from disclosure  
21 under the Revised Uniform Unclaimed Property Act.

22 (gg) Information that is prohibited from being  
23 disclosed under Section 7-603.5 of the Illinois Vehicle  
24 Code.

25 (hh) Records that are exempt from disclosure under  
26 Section 1A-16.7 of the Election Code.

1           (ii) Information which is exempted from disclosure  
2 under Section 2505-800 of the Department of Revenue Law of  
3 the Civil Administrative Code of Illinois.

4           (jj) Information and reports that are required to be  
5 submitted to the Department of Labor by registering day  
6 and temporary labor service agencies but are exempt from  
7 disclosure under subsection (a-1) of Section 45 of the Day  
8 and Temporary Labor Services Act.

9           (kk) Information prohibited from disclosure under the  
10 Seizure and Forfeiture Reporting Act.

11           (ll) Information the disclosure of which is restricted  
12 and exempted under Section 5-30.8 of the Illinois Public  
13 Aid Code.

14           (mm) Records that are exempt from disclosure under  
15 Section 4.2 of the Crime Victims Compensation Act.

16           (nn) Information that is exempt from disclosure under  
17 Section 70 of the Higher Education Student Assistance Act.

18           (oo) Communications, notes, records, and reports  
19 arising out of a peer support counseling session  
20 prohibited from disclosure under the First Responders  
21 Suicide Prevention Act.

22           (pp) Names and all identifying information relating to  
23 an employee of an emergency services provider or law  
24 enforcement agency under the First Responders Suicide  
25 Prevention Act.

26           (qq) Information and records held by the Department of



1 Public Health and its authorized representatives collected  
2 under the Reproductive Health Act.

3 (rr) Information that is exempt from disclosure under  
4 the Cannabis Regulation and Tax Act.

5 (ss) Data reported by an employer to the Department of  
6 Human Rights pursuant to Section 2-108 of the Illinois  
7 Human Rights Act.

8 (tt) Recordings made under the Children's Advocacy  
9 Center Act, except to the extent authorized under that  
10 Act.

11 (uu) Information that is exempt from disclosure under  
12 Section 50 of the Sexual Assault Evidence Submission Act.

13 (vv) Information that is exempt from disclosure under  
14 subsections (f) and (j) of Section 5-36 of the Illinois  
15 Public Aid Code.

16 (ww) Information that is exempt from disclosure under  
17 Section 16.8 of the State Treasurer Act.

18 (xx) Information that is exempt from disclosure or  
19 information that shall not be made public under the  
20 Illinois Insurance Code.

21 (yy) Information prohibited from being disclosed under  
22 the Illinois Educational Labor Relations Act.

23 (zz) Information prohibited from being disclosed under  
24 the Illinois Public Labor Relations Act.

25 (aaa) Information prohibited from being disclosed  
26 under Section 1-167 of the Illinois Pension Code.

1            (bbb) ~~(ccc)~~ Information that is prohibited from  
2 disclosure by the Illinois Police Training Act and the  
3 Illinois State Police Act.

4            (ccc) ~~(ddd)~~ Records exempt from disclosure under  
5 Section 2605-304 of the Illinois ~~Department of~~ State  
6 Police Law of the Civil Administrative Code of Illinois.

7            (ddd) ~~(bbb)~~ Information prohibited from being  
8 disclosed under Section 35 of the Address Confidentiality  
9 for Victims of Domestic Violence, Sexual Assault, Human  
10 Trafficking, or Stalking Act.

11           (eee) ~~(ddd)~~ Information prohibited from being  
12 disclosed under subsection (b) of Section 75 of the  
13 Domestic Violence Fatality Review Act.

14           (fff) Information that is prohibited from disclosure  
15 under the Freedom from Drone Surveillance Act.

16 (Source: P.A. 101-13, eff. 6-12-19; 101-27, eff. 6-25-19;  
17 101-81, eff. 7-12-19; 101-221, eff. 1-1-20; 101-236, eff.  
18 1-1-20; 101-375, eff. 8-16-19; 101-377, eff. 8-16-19; 101-452,  
19 eff. 1-1-20; 101-466, eff. 1-1-20; 101-600, eff. 12-6-19;  
20 101-620, eff. 12-20-19; 101-649, eff. 7-7-20; 101-652, eff.  
21 1-1-22; 101-656, eff. 3-23-21; 102-36, eff. 6-25-21; 102-237,  
22 eff. 1-1-22; 102-292, eff. 1-1-22; 102-520, eff. 8-20-21;  
23 102-559, eff. 8-20-21; revised 10-5-21.)

24           Section 10. The Freedom from Drone Surveillance Act is  
25 amended by changing Sections 5, 15, 20, and 25 as follows:

1 (725 ILCS 167/5)

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

3 "Authority" means the Illinois Criminal Justice  
4 Information Authority.

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

7 "Emotionally disturbed person" means a person who appears  
8 to be mentally ill or temporarily deranged and is conducting  
9 himself or herself in a manner which a peace officer  
10 reasonably believes is likely to result in serious injury to  
11 himself, herself, or others.

12 "Information" means any evidence, images, sounds, ~~data~~, or  
13 other information gathered by a drone. "Information" does not  
14 apply to circumstances in which the drone is used over  
15 publicly owned property or private property with permission  
16 when the purpose is training peace officers, public relations,  
17 conducting infrastructure inspections, or other similar  
18 non-law enforcement purposes.

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

23 "Special event" means a non-routine activity within a  
24 community that brings together a large number of people.

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

1 (725 ILCS 167/15)

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

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

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

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

24 (4) If a law enforcement agency is attempting to  
25 locate a missing person or assisting an emotionally

1        disturbed person, and is not also undertaking a criminal  
2        investigation.

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

19            (6) If a law enforcement agency is using a drone  
20        during a disaster or public health emergency, as defined  
21        by Section 4 of the Illinois Emergency Management Agency  
22        Act. The use of a drone under this paragraph (6) does not  
23        require an official declaration of a disaster or public  
24        health emergency prior to use. A law enforcement agency  
25        may use a drone under this paragraph (6) to obtain  
26        information necessary for the determination of whether or

1 not a disaster or public health emergency should be  
2 declared, to monitor weather or emergency conditions, to  
3 survey damage, or to otherwise coordinate response and  
4 recovery efforts. The use of a drone under this paragraph  
5 (6) is permissible during the disaster or public health  
6 emergency and during subsequent response and recovery  
7 efforts.

8 (7) If a law enforcement agency is using a drone at a  
9 special event to:

10 (A) prepare for or monitor crowd size, density,  
11 and movement;

12 (B) assess public safety staffing; or

13 (C) monitor the safety of the participants.

14 If the special event is occurring on private property,  
15 use of a drone for this exception shall be authorized by  
16 the owners or organizers prior to flight.

17 (8) If a law enforcement agency is using a drone to  
18 respond to Public Safety Answering Point (PSAP) dispatched  
19 calls for service, when the primary purpose for the  
20 response is to locate or assist victims, or both, identify  
21 offenders, and to guide emergency response.

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

23 (725 ILCS 167/20)

24 Sec. 20. Information retention. If a law enforcement  
25 agency uses a drone under Section 15 of this Act, the agency

1 within 30 days shall destroy all information gathered by the  
2 drone, except that the a supervisor at that agency may retain  
3 particular information if:

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

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

8 (3) the information is required to be retained to  
9 comply with the Local Records Commission retention  
10 schedules;

11 (4) a supervisor at the agency deems that the  
12 information will be used exclusively for training  
13 purposes.

14 If a law enforcement agency uses a drone under Section 15  
15 at any demonstration, protest, rally, march, parade, or other  
16 gathering for the purpose of expressing political, religious,  
17 social, or other views, the law enforcement agency shall  
18 destroy all information gathered by the drone within 7 days,  
19 except that the agency may retain the particular information  
20 if:

21 (1) there is reasonable suspicion that the information  
22 contains evidence of criminal activity; or

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

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

1 (725 ILCS 167/25)

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

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