



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1788

Introduced 2/9/2023, by Sen. Sue Rezin

SYNOPSIS AS INTRODUCED:

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

Amends the Freedom from Drone Surveillance Act. Defines "emotionally disturbed person" and "special event". Deletes "data" from the definition of "information". Provides that the Act does not apply to the use of drones by a law enforcement agency under circumstances in which the drone is used over publicly owned property or private property with permission and 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. Provides that if the special event is occurring on private property, the use of a drone 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, or guide emergency response. Provides that information gathered by a drone is subject to the Freedom of Information Act. Amends the Freedom of Information Act to make conforming changes.

LRB103 27095 RLC 53463 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) Information that is prohibited from disclosure
2 by the Illinois Police Training Act and the Illinois State
3 Police Act.

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

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

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

14 (fff) Images from cameras under the Expressway Camera
15 Act. This subsection (fff) is inoperative on and after
16 July 1, 2023.

17 (ggg) Information prohibited from disclosure under
18 paragraph (3) of subsection (a) of Section 14 of the Nurse
19 Agency Licensing Act.

20 (hhh) Information submitted to the Department of State
21 Police in an affidavit or application for an assault
22 weapon endorsement, assault weapon attachment endorsement,
23 .50 caliber rifle endorsement, or .50 caliber cartridge
24 endorsement under the Firearm Owners Identification Card
25 Act.

26 (iii) Information that is prohibited from disclosure

1 under the Freedom from Drone Surveillance Act.

2 (Source: P.A. 101-13, eff. 6-12-19; 101-27, eff. 6-25-19;
3 101-81, eff. 7-12-19; 101-221, eff. 1-1-20; 101-236, eff.
4 1-1-20; 101-375, eff. 8-16-19; 101-377, eff. 8-16-19; 101-452,
5 eff. 1-1-20; 101-466, eff. 1-1-20; 101-600, eff. 12-6-19;
6 101-620, eff. 12-20-19; 101-649, eff. 7-7-20; 101-652, eff.
7 1-1-22; 101-656, eff. 3-23-21; 102-36, eff. 6-25-21; 102-237,
8 eff. 1-1-22; 102-292, eff. 1-1-22; 102-520, eff. 8-20-21;
9 102-559, eff. 8-20-21; 102-813, eff. 5-13-22; 102-946, eff.
10 7-1-22; 102-1042, eff. 6-3-22; 102-1116, eff. 1-10-23.)

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

13 (725 ILCS 167/5)

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

15 "Authority" means the Illinois Criminal Justice
16 Information Authority.

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

19 "Emotionally disturbed person" means a person who appears
20 to be mentally ill or temporarily deranged and is conducting
21 himself or herself in a manner that a peace officer reasonably
22 believes is likely to result in serious injury to himself,
23 herself, or others.

24 "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 "Special event" means a non-routine activity within a
7 community that brings together a large number of people and
8 the event is in a location where a person does not have a
9 reasonable expectation of privacy.

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

11 (725 ILCS 167/15)

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

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

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

24 (3) If a law enforcement agency possesses reasonable
25 suspicion that, under particular circumstances, swift

1 action is needed to prevent imminent harm to life, or to
2 forestall the imminent escape of a suspect or the
3 destruction of evidence. The use of a drone under this
4 paragraph (3) is limited to a period of 48 hours. Within 24
5 hours of the initiation of the use of a drone under this
6 paragraph (3), the chief executive officer of the law
7 enforcement agency must report in writing the use of a
8 drone to the local State's Attorney.

9 (4) If a law enforcement agency is attempting to
10 locate a missing person or assisting an emotionally
11 disturbed person, and is not also undertaking a criminal
12 investigation.

13 (5) If a law enforcement agency is using a drone
14 solely for crime scene and traffic crash scene
15 photography. Crime scene and traffic crash photography
16 must be conducted in a geographically confined and
17 time-limited manner to document specific occurrences. The
18 use of a drone under this paragraph (5) on private
19 property requires either a search warrant based on
20 probable cause under Section 108-3 of the Code of Criminal
21 Procedure of 1963 or lawful consent to search. The use of a
22 drone under this paragraph (5) on lands, highways,
23 roadways, or areas belonging to this State or political
24 subdivisions of this State does not require a search
25 warrant or consent to search. Any law enforcement agency
26 operating a drone under this paragraph (5) shall make

1 every reasonable attempt to only photograph the crime
2 scene or traffic crash scene and avoid other areas.

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

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

20 (A) prepare for or monitor crowd size, density,
21 and movement;

22 (B) assess public safety staffing; or

23 (C) monitor the safety of the participants.

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

1 (8) If a law enforcement agency is using a drone to
2 respond to Public Safety Answering Point (PSAP) dispatched
3 calls for service, when the primary purpose for the
4 response is to locate or assist victims, or both, identify
5 offenders, or guide emergency response.

6 (9) If a law enforcement agency is using a drone under
7 circumstances in which the drone is used over private
8 property with permission or over publicly owned property
9 for the purpose of training peace officers, public
10 relations, conducting infrastructure inspections, or other
11 similar non-law enforcement purposes.

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

13 (725 ILCS 167/20)

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

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

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

23 (3) the information is required to be retained to
24 comply with the Local Records Commission retention
25 schedules; or

1 (4) a supervisor at the agency deems that the
2 information will be used exclusively for training
3 purposes.

4 If a law enforcement agency uses a drone under Section 15
5 at any demonstration, protest, rally, march, parade, or other
6 gathering for the purpose of expressing political, religious,
7 social, or other views, the law enforcement agency shall
8 destroy all information gathered by the drone within 7 days,
9 except that the agency may retain the particular information
10 if:

11 (1) there is a reasonable suspicion that the
12 information contains evidence of criminal activity; or

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

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

16 (725 ILCS 167/25)

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

1 ~~trial.~~

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