

As Introduced

**131st General Assembly
Regular Session
2015-2016**

S. B. No. 251

**Senators Skindell, Jordan
Cosponsor: Senator Seitz**

A BILL

To enact sections 2933.67, 2933.68, 2933.69, and 1
2933.70 of the Revised Code to regulate the use 2
of drones for gathering evidence and information 3
by law enforcement officers in Ohio. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2933.67, 2933.68, 2933.69, and 5
2933.70 of the Revised Code be enacted to read as follows: 6

Sec. 2933.67. (A) As used in sections 2933.67 to 2933.70 7
of the Revised Code: 8

(1) "Drone" means any powered, aerial vehicle to which all 9
of the following apply: 10

(a) It does not carry a human operator; 11

(b) It uses aerodynamic forces to provide vehicular lift; 12

(c) It can fly automatically or be piloted remotely; 13

(d) It may be expendable or recoverable. 14

(2) "Information" means any image, sound, or data, or any 15
other video or audio information gathered. 16

(3) "Law enforcement officer" means any person specified 17
in division (A) (11) (a), (b), (h), (i), (j), (k), or (n) of 18
section 2901.01 of the Revised Code. 19

(4) "Law enforcement agency" means a municipal police 20
department, the office of a sheriff, the office of a village 21
marshal, a township or joint township police district, the 22
office of a township constable, the state highway patrol, a 23
prosecuting attorney, the office of attorney general, or a state 24
or local governmental body that enforces criminal laws and that 25
has law enforcement officers who have a statutory power of 26
arrest. 27

(B) Except as provided in divisions (D) and (E) of this 28
section, no law enforcement officer of this state or of any 29
political subdivision of this state may use a drone to gather 30
evidence or information from a person or property in a criminal 31
investigation unless either of the following occurs: 32

(1) The law enforcement officer first obtains a search 33
warrant based on probable cause under section 2933.22 of the 34
Revised Code or Criminal Rule 41 that authorizes the use of the 35
drone and the drone is used in accordance with the authorization 36
specified in the warrant. An application for a search warrant to 37
use a drone shall specify the target of the criminal 38
investigation and the offense or offenses with respect to which 39
the drone will be used and the warrant is requested. 40

(2) (a) Both of the following apply: 41

(i) The law enforcement officer has reasonable suspicion 42
of the commission of a crime in which the circumstances would 43
warrant swift action to prevent immediate danger of death or 44
serious physical injury to an individual and the use of the 45

drone in the situation is needed without delay; 46

(ii) A warrant cannot be obtained with due diligence in 47
time to prevent the immediate danger of death or serious 48
physical injury, and the law enforcement officer believes, in 49
good faith, that it requires the drone use for this prevention. 50

(b) Not later than forty-eight hours after the use of a 51
drone without a warrant under division (B) (2) (a) of this 52
section, the law enforcement officer who engaged in the use of 53
the drone shall file with the appropriate court of common pleas 54
an application for the use of the drone. The application shall 55
consist of a written statement setting forth the facts giving 56
rise to the emergency circumstances warranting swift action in 57
order to prevent immediate danger of death or serious physical 58
injury to a person. If, for any reason, the application is 59
denied by the court of common pleas, the information collected 60
by the use of the drone shall be treated as being obtained in 61
violation of this section, and an inventory shall be served on 62
the person named in the application. 63

(C) If a law enforcement officer obtains a search warrant 64
based on probable cause in accordance with division (B) (1) of 65
this section, the search warrant must be limited to a period not 66
to exceed forty-eight hours. The court may grant extensions, but 67
in no case shall an extension be longer than the issuing judge 68
determines necessary to achieve the purposes for which it was 69
granted. No extension shall be granted for more than thirty 70
days. 71

(D) Drones may be used by law enforcement officers without 72
complying with division (B) of this section solely for crime 73
scene or traffic accident scene video or photography. The use of 74
drones in these instances must be conducted in a geographically 75

confined area and in a time-limited manner to document specific 76
occurrences. 77

(E) Law enforcement officers may use drones without 78
complying with division (B) of this section to locate missing 79
persons whose physical or mental state is such that not locating 80
them would cause serious risk of physical injury or death, as 81
long as the use of the drone does not constitute a criminal 82
investigation. 83

(F) Evidence collected in violation of division (B) of 84
this section is inadmissible in any criminal proceeding. Nothing 85
in this section shall be construed to limit a court from 86
independently ruling on the admissibility of evidence collected 87
from drones by law enforcement officers for compliance with 88
provisions of the United States and Ohio Constitutions. 89

(G) Any judge who grants a search warrant under division 90
(B)(1) of this section shall annually comply with all applicable 91
reporting requirements to the attorney general under division 92
(B) of section 2933.70 of the Revised Code. 93

(H) Drones operated in accordance with division (B) of 94
this section shall be operated in a manner so as to collect 95
information about the target and to avoid collection of 96
information about individuals other than the target or about 97
homes or property other than those of the target. Drones 98
operated in accordance with division (D) or (E) of this section 99
shall be operated in a manner so as to avoid collection of 100
information other than as necessary with respect to the crime 101
scene or traffic accident scene or to locating the missing 102
person. 103

(I) Any operation of a drone in this state in accordance 104

with division (B), (D), or (E) of this section shall comply with 105
all applicable federal aviation administration requirements and 106
guidelines. 107

(J) No drone operated in accordance with division (B), 108
(D), or (E) of this section may be equipped with any kind of 109
weapon. 110

(K) Any person who is injured in any manner due to a 111
violation of this section may file a civil action with the 112
appropriate court of common pleas. In the action, the court may 113
award compensatory damages, punitive or exemplary damages, and 114
reasonable attorney's fees. 115

(L) If a law enforcement officer uses a drone in 116
accordance with division (B), (D), or (E) of this section, the 117
law enforcement agency served by the officer shall destroy all 118
information gathered within thirty days after the information is 119
collected unless either of the following applies: 120

(1) There is reasonable suspicion that the information 121
contains evidence of criminal activity; 122

(2) The information is relevant to an ongoing criminal 123
investigation or pending criminal trial. 124

(M) Except as otherwise provided in this division, a law 125
enforcement agency that uses a drone in this state in accordance 126
with division (B) of this section shall give notice to the 127
target of information collected by the use of the drone not 128
later than forty-eight hours after the information is collected. 129
A law enforcement agency may request the court of common pleas 130
that issues the warrant to issue an order with the warrant 131
delaying notification for a period not to exceed ninety days, if 132
the court determines that there is reason to believe that 133

notification would result in an adverse result involving any of 134
the following: 135

(1) Endangering the life or physical safety of another 136
person; 137

(2) Flight from prosecution; 138

(3) The destruction of or tampering with evidence; 139

(4) The intimidation of potential witnesses; 140

(5) Otherwise seriously jeopardizing an investigation or 141
unduly delaying a trial. 142

If the court issues an order delaying notification, the 143
law enforcement agency may delay the notice to the target in 144
accordance with the provisions of that order. 145

Sec. 2933.68. (A) No information that is collected by a 146
law enforcement officer through use of a drone under division 147
(B) of section 2933.67 of the Revised Code about an individual 148
other than the target or about a home or property other than 149
those of the target may be used, copied, or disclosed for any 150
purpose. Any such information shall be deleted as soon as 151
possible and in no event later than twenty-four hours after the 152
information is collected. 153

(B) No information collected and no evidence derived from 154
information collected by a drone may be received in evidence in 155
any trial, hearing, or other proceeding in or before any court, 156
grand jury, department, officer, agency, regulatory body, 157
legislative committee, or other authority of the state or of a 158
political subdivision if the information was used, copied, 159
disclosed, or retained in violation of division (A) of this 160
section. 161

Sec. 2933.69. (A) The law enforcement agency that is 162
served by a particular law enforcement officer promptly shall 163
initiate a proceeding to determine whether disciplinary action 164
against the officer by the agency is warranted if both of the 165
following apply: 166

(1) A court or the law enforcement agency determines that 167
the officer has violated any provision of section 2933.67 or 168
2933.68 of the Revised Code and the court or agency finds that 169
the officer acted recklessly with respect to the violation; 170

(2) The law enforcement agency has received a true and 171
correct copy of the decision and findings of the court described 172
in division (A) (1) of this section or has made a written 173
determination of the decision and findings that it made as 174
described in that division. 175

(B) When a law enforcement agency is required by division 176
(A) of this section to initiate a proceeding under that division 177
with respect to a law enforcement officer who serves the agency, 178
the head of the agency shall determine whether disciplinary 179
action against the officer is warranted. Upon making that 180
determination, the head of the agency shall notify the attorney 181
general and provide the attorney general with the reasons for 182
the determination. 183

Sec. 2933.70. (A) Not later than the last day of January 184
of each year, each law enforcement agency that, pursuant to 185
division (B), (D), or (E) of section 2933.67 of the Revised 186
Code, used or had used on its behalf a drone during the 187
immediately preceding twelve months shall report to the attorney 188
general, and make public on its internet web site, all of the 189
following information: 190

(1) The number of times a drone was used by or on behalf of the agency, organized by the types of incidents and the types of justification for deployment; 191
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(2) The number of criminal investigations that were aided by the use of drones by or on behalf of the agency, including a description of how the drone was of assistance to each investigation; 194
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(3) The number of times drones were used by or on behalf of the agency for reasons other than criminal investigations, including a description of how the drone was of assistance in each instance; 198
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(4) The frequency and type of data collected through the use of a drone by or on behalf of the agency about individuals other than the target or about a home or property other than those of the target; 202
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(5) The total cost to the agency of its drone program. 206

(B) Not later than the last day of January of each year, each judge who issued a warrant for the use of a drone under section 2933.67 of the Revised Code or an extension of a warrant under that section that expired during the preceding calendar year, or who denied issuance of such a warrant or extension during that calendar year, shall submit to the attorney general a report that contains all of the following: 207
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(1) The fact that a warrant or extension was applied for; 214

(2) The kind of warrant or extension that was applied for; 215

(3) The fact that the warrant or extension was granted as applied for, was modified, or was denied; 216
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(4) The period of drone use authorized by the warrant and 218

<u>the number and duration of any extensions of the warrant that</u>	219
<u>were issued;</u>	220
<u>(5) The offense or offenses specified in the warrant or</u>	221
<u>the extension of a warrant;</u>	222
<u>(6) The name of the law enforcement officer who applied</u>	223
<u>for the warrant and the name of the person who authorized the</u>	224
<u>application;</u>	225
<u>(7) In the absence of a warrant, the number of</u>	226
<u>applications subsequently filed under division (B)(2) of section</u>	227
<u>2933.67 of the Revised Code, the period of time stated on each</u>	228
<u>application, the offense or offenses stated in each application,</u>	229
<u>the name of the law enforcement officer who submitted each</u>	230
<u>application, and the number of applications that were denied.</u>	231
<u>(C)(1) Not later than the last day of June of each year,</u>	232
<u>the attorney general shall compile a report that contains all of</u>	233
<u>the following:</u>	234
<u>(a) The information described in division (B) of this</u>	235
<u>section with respect to each application for a warrant or</u>	236
<u>extension of a warrant, and to each application in the absence</u>	237
<u>of a warrant, made during the preceding calendar year;</u>	238
<u>(b) A general description of the information gathered</u>	239
<u>under warrants or extensions or gathered in the absence of a</u>	240
<u>warrant under an application referenced in division (C)(1)(a) of</u>	241
<u>this section, including all of the following:</u>	242
<u>(i) The approximate nature and frequency of incriminating</u>	243
<u>conduct regarding which information was gathered;</u>	244
<u>(ii) The approximate number of persons regarding whom</u>	245
<u>information was gathered;</u>	246

<u>(iii) The approximate nature, amount, and cost of the</u>	247
<u>manpower and other resources used in the collection of</u>	248
<u>information.</u>	249
<u>(c) The number of arrests resulting from the information</u>	250
<u>and the offenses for which arrests were made;</u>	251
<u>(d) The number of trials resulting from the information;</u>	252
<u>(e) The number of motions to suppress made with respect to</u>	253
<u>the information, and the number of those motions that were</u>	254
<u>granted or denied;</u>	255
<u>(f) The number of convictions resulting from the</u>	256
<u>information and the offenses for which the convictions were</u>	257
<u>obtained;</u>	258
<u>(g) A general assessment of the importance of the</u>	259
<u>information;</u>	260
<u>(h) A summary and analysis of the data described in</u>	261
<u>divisions (A) and (B) of this section.</u>	262
<u>(2) Not later than the last day of June of each year, the</u>	263
<u>attorney general shall transmit to the president and minority</u>	264
<u>leader of the senate and the speaker and minority leader of the</u>	265
<u>house of representatives, and shall post on the internet web</u>	266
<u>site of the attorney general, the report described in division</u>	267
<u>(C)(1) of this section.</u>	268