

# HOUSE BILL No. 4455

March 14, 2013, Introduced by Reps. McMillin, Goike, Yonker, Lyons, Howrylak, Somerville, Hooker, Cavanagh, Robinson, Lund, Heise, Lauwers, Singh, Hovey-Wright, Callton, Genetski and Franz and referred to the Committee on Criminal Justice.

A bill to authorize and regulate the use of unmanned aerial vehicles; to provide the powers and duties of certain state agencies and departments and local units of government; to authorize the use of unmanned aerial vehicles under certain circumstances; to prohibit the operation of unmanned aerial vehicles under certain circumstances; to prohibit the disclosure of information collected by unmanned aerial vehicles under certain circumstances; and to provide penalties and sanctions.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. As used in this act:

2       (a) "Agent of this state or a political subdivision of this  
3       state" means this state or local unit of government, including, but

1 not limited to, a law enforcement agency or any other investigative  
2 entity, agency, department, division, bureau, board, or commission,  
3 or an individual acting or purporting to act for or on behalf of  
4 this state or local unit of government.

5 (b) "Law enforcement agency" means 1 or more of the following:

6 (i) The department of state police.

7 (ii) The department of natural resources.

8 (iii) The county sheriff department.

9 (iv) The police department of a local unit of government or of  
10 a community college, college, or university.

11 (c) "Local unit of government" means 1 or more of the  
12 following:

13 (i) A city, county, township, or village.

14 (ii) A public school, as that term is defined in section 5 of  
15 the revised school code, 1976 PA 451, MCL 380.5.

16 (iii) A school district, as that term is defined in section 6 of  
17 the revised school code, 1976 PA 451, MCL 380.6.

18 (d) "Unmanned aerial vehicle" or "UAV" means an aircraft that  
19 is operated without the possibility of direct human intervention  
20 from within or on the aircraft.

21 Sec. 3. (1) An unmanned aerial vehicle shall only be used as  
22 provided in this act.

23 (2) A person who uses an unmanned aerial vehicle shall comply  
24 with all federal aviation administration requirements and  
25 guidelines. This state or a local unit of government shall not  
26 acquire an unmanned aerial vehicle until the legislature or the  
27 legislative body of the local unit of government seeking to acquire

1 an unmanned aerial vehicle first approves its acquisition.

2 (3) Except as provided in section 5, a law enforcement agency  
3 of this state or a political subdivision of this state shall not  
4 disclose or receive information acquired through the operation of  
5 an unmanned aerial vehicle.

6 (4) A person shall not operate a UAV that contains, mounts, or  
7 carries a lethal or nonlethal weapon or weapon system of any type.

8 (5) The body of a UAV shall bear the name of the political  
9 entity that owns the UAV in clearly printed and visible lettering.

10 Sec. 5. Information about a person acquired through the  
11 operation of an unmanned aerial vehicle shall not be disclosed or  
12 received unless 1 or more of the following circumstances apply:

13 (a) The person has given written consent to the disclosure.

14 (b) The unmanned aerial vehicle is used in circumstances in  
15 which it is reasonable to believe that there is an imminent threat  
16 to the life or safety of a person, for the purpose of assisting the  
17 person if the following conditions are met:

18 (i) The request to use an unmanned aerial vehicle for emergency  
19 purposes under this subdivision contains documentation establishing  
20 the factual basis for the emergency.

21 (ii) Not later than 48 hours after an agent of this state or a  
22 political subdivision of this state begins operating an unmanned  
23 aerial vehicle, a supervisory official files a sworn statement  
24 setting forth the grounds for the emergency access.

25 (c) Pursuant to a search warrant issued under 1966 PA 189, MCL  
26 780.651 to 780.659, to collect information from private property.

27 (d) Pursuant to an order issued by a court of competent

1 jurisdiction if the agent of this state or a political subdivision  
2 of this state offers specific and articulable facts demonstrating  
3 reasonable suspicion of criminal activity, that the operation of  
4 the unmanned aerial vehicle will uncover that criminal activity,  
5 and that alternative methods of data collection are either cost-  
6 prohibitive or present a significant risk to any person's bodily  
7 safety. An order issued under this subdivision shall not be issued  
8 for a period greater than 48 hours. Extensions of an order may be  
9 granted but shall be no longer than the authorizing judge considers  
10 necessary to achieve the purposes for which it was granted and in  
11 no event for longer than 30 days.

12 (e) If no part of the information and no evidence derived from  
13 the operation is admitted into evidence in a trial, hearing, or  
14 other proceeding in or before a court, grand jury, department,  
15 officer, agency, regulatory body, legislative committee, or other  
16 authority of this state or a political subdivision of this state,  
17 or for any intelligence purpose. An unmanned aerial vehicle used  
18 under this subdivision shall be operated in a manner so as to  
19 collect data only on the target and to avoid data collection on  
20 individuals, homes, or areas other than the target. Neither facial  
21 recognition nor other biometric matching technology shall be used  
22 on nontarget data collected by an unmanned aerial vehicle.

23 Sec. 7. (1) Data collected on an individual, home, or area  
24 other than the target that justified deployment of a UAV shall not  
25 be used, copied, or disclosed for any purpose, but shall be deleted  
26 as soon as possible, and in no event later than 24 hours after  
27 collection.

1           (2) If an agent of this state or a political subdivision of  
2 this state uses an unmanned aerial vehicle, information acquired  
3 and evidence derived from the operation shall not be admitted into  
4 evidence in a trial, hearing, or other proceeding in or before a  
5 court, grand jury, department, officer, agency, regulatory body,  
6 legislative committee, or other authority of this state or a  
7 political subdivision of this state if the disclosure of that  
8 information would be in violation of this act.

9           Sec. 9. (1) Notwithstanding any other provision of this act,  
10 an agent of this state or a political subdivision of this state  
11 shall only operate an unmanned aerial vehicle to target public  
12 property if both of the following apply:

13           (a) The agent reasonably suspects that an emergency situation  
14 exists that involves the immediate danger of death or serious  
15 physical injury to any person, conspiratorial activities  
16 threatening the national security interest, or conspiratorial  
17 activities characteristic of organized crime and requires operation  
18 of an unmanned aerial vehicle before a warrant or order authorizing  
19 such interception can, with due diligence, be obtained.

20           (b) There are grounds upon which a warrant or order could be  
21 entered to authorize the operation, and an application for a  
22 warrant or order approving the operation is made within 48 hours  
23 after the operation has occurred or begins to occur.

24           (2) In the absence of a warrant or order, the operation of an  
25 unmanned aerial vehicle carried out under subsection (1) shall  
26 immediately terminate if the information sought is obtained or if  
27 the application for the warrant or order is denied, whichever

1 occurs earlier. If the application for a warrant or order is  
2 denied, the information obtained from the operation of an unmanned  
3 aerial vehicle shall be treated as having been obtained in  
4 violation of this act and an inventory shall be served on the  
5 person named in the application.

6 (3) An unmanned aerial vehicle shall only be operated to  
7 target private property if a search warrant is first obtained under  
8 1966 PA 189, MCL 780.651 to 780.659, to permit that operation.

9 Sec. 11. (1) An agent of this state or a political subdivision  
10 of this state who applies for a search warrant or an order under  
11 this act may include in the application a request, which the court  
12 shall grant, for an order delaying the notification required under  
13 section 1(8) of 1966 PA 189, MCL 780.651, for a period not to  
14 exceed 90 days, if the court determines that there is reason to  
15 believe that notification of the existence of the court order may  
16 have an adverse result. As used in this subsection, "adverse  
17 result" means 1 or more of the following:

18 (a) Endangering the life or physical safety of an individual.

19 (b) Flight from prosecution.

20 (c) Destruction of or tampering with evidence.

21 (d) Intimidation of potential witnesses.

22 (e) Otherwise seriously jeopardizing an investigation or  
23 unduly delaying a trial.

24 (2) Extensions of the delay of notification under subsection  
25 (1) of up to 90 days each may be granted by the court upon  
26 application, or by certification by the agent of this state or a  
27 political subdivision of this state.

1           (3) Upon expiration of the period of delay of notification, an  
2 agent of this state or a political subdivision of this state shall  
3 serve, or deliver by registered or first-class mail, a copy of the  
4 warrant or order upon the person or persons upon whom information  
5 was collected together with notice that states with reasonable  
6 specificity the nature of the law enforcement inquiry and informs  
7 the person or persons that notification was delayed, what  
8 governmental entity or court made the certification or  
9 determination pursuant to which that delay occurred, and which  
10 provision of this section allowed the delay.

11           Sec. 13. (1) If a court or department or local unit of  
12 government determines that an agent of this state or a political  
13 subdivision of this state has violated this act, and the court or  
14 appropriate department or local unit of government finds that the  
15 circumstances surrounding the violation raise serious questions  
16 about whether or not the agent acted willfully or intentionally  
17 with respect to the violation, the department or local unit of  
18 government shall, upon receipt of a true and correct copy of the  
19 decision and findings of the court or appropriate department or  
20 local unit of government, promptly initiate a proceeding to  
21 determine whether disciplinary action against the agent is  
22 warranted. If the department or local unit of government involved  
23 determines that disciplinary action is not warranted, the director  
24 of that department or chief operating officer of the local unit of  
25 government shall notify the attorney general and shall provide the  
26 attorney general with the reasons for the determination.

27           (2) A willful disclosure or use by an agent of this state or a

1 political subdivision of this state of information beyond the  
2 extent permitted by this act is a violation of this act for  
3 purposes of this section.

4 (3) If it is determined under subsection (1) that an agent or  
5 a department of this state by intent or by negligence violated this  
6 act, the governor may require that the agent or department obtain  
7 approval from the attorney general before deploying an unmanned  
8 aerial vehicle for a specified period of time. As used in this  
9 subsection, "negligence" means conduct that falls below the  
10 standards of behavior established by law for the protection of  
11 others against unreasonable risk of harm.

12 Sec. 15. (1) No later than January 1, April 1, July 1, and  
13 October 1 of each year, any agent of this state or a political  
14 subdivision of this state that uses unmanned aerial vehicles shall  
15 report to the legislature and make all of the following public on  
16 its website:

17 (a) The number of times an unmanned aerial vehicle was used,  
18 organized by the types of operations and the types of justification  
19 for deployment.

20 (b) The number of crime investigations aided by the use of an  
21 unmanned aerial vehicle, including a description of how the  
22 unmanned aerial vehicle was helpful to each investigation.

23 (c) The number of uses of an unmanned aerial vehicle for  
24 reasons other than criminal investigations, including a description  
25 of how the unmanned aerial vehicle was helpful in each instance.

26 (d) The frequency and type of data collected on individuals or  
27 areas other than targets.

1 (e) The total cost of its unmanned aerial vehicle program.

2 (f) The flight pattern of each flight made by an unmanned  
3 aerial vehicle, except for those flights made as part of a criminal  
4 investigation that has not yet been completed.

5 (g) A log containing all of the following information  
6 concerning each flight of a UAV:

7 (i) The time and geographical location of each takeoff and  
8 landing.

9 (ii) For each flight, the total distance travelled and time  
10 spent in flight.

11 (iii) The geographical flight pattern.

12 (iv) A unique identifier denoting the individual warrant or  
13 order, if any, issued under section 5 or section 9 corresponding to  
14 the flight.

15 (2) In January of each year, each judge who has issued an  
16 order or an extension of an order under this act that expired  
17 during the preceding year, or who has denied a request for a  
18 warrant or order under this act during the preceding year, shall  
19 report all of the following to the state court administrator:

20 (a) The fact that an order or extension was applied for.

21 (b) The kind of order or extension applied for.

22 (c) The fact that the order or extension was granted as  
23 applied for, was modified, or was denied.

24 (d) The period of unmanned aerial vehicle use authorized by  
25 the order, and the number and duration of any extensions of the  
26 order.

27 (e) The offense specified in the order or application, or

1 extension of an order.

2 (f) The identity of the applying agent of this state or a  
3 political subdivision of this state making the application and the  
4 person authorizing the application.

5 (3) In March of each year, the department of attorney general  
6 or the principal prosecuting attorney for a political subdivision  
7 of this state shall report all of the following to the state court  
8 administrator:

9 (a) The information required under subsection (2) with respect  
10 to each application for an order or extension made during the  
11 preceding calendar year.

12 (b) A general description of the information gathered under  
13 each order or extension, including all of the following:

14 (i) The approximate nature and frequency of incriminating  
15 conduct gathered.

16 (ii) The approximate number of persons upon whom information  
17 was gathered.

18 (iii) The approximate nature, amount, and cost of the manpower  
19 and other resources used in the collection.

20 (c) A list of each arrest resulting from information gathered  
21 and the offenses for which arrests were made.

22 (d) The number of trials resulting from information gathered.

23 (e) The number of motions to suppress made with respect to  
24 information gathered, and the number granted or denied.

25 (f) A list of convictions resulting from information gathered  
26 and the offenses for which the convictions were obtained and a  
27 general assessment of the importance of the information.

1           (4) In June of each year, the state court administrator shall  
2 transmit to the legislature and post on its website a full and  
3 complete report concerning the number of applications for orders  
4 authorizing or approving operation of an unmanned aerial vehicle or  
5 disclosure of information from the operation of an unmanned aerial  
6 vehicle under this act and the number of orders and extensions  
7 granted or denied under this act during the preceding calendar  
8 year. The report shall include a summary and analysis of the data  
9 required to be filed with the state court administrator under this  
10 section.

11           (5) The chief operating officer of a department of this state  
12 or of a local unit of government that has deployed a UAV during the  
13 preceding 3 months shall sign an affidavit stating that there is no  
14 existing data in that unit of government's data or in that unit of  
15 government's possession that violates section 7(1) and send the  
16 affidavit to the chair of the senate and house of representatives  
17 standing committees on the judiciary by January 1, April 1, July 1,  
18 and October 1 of each year.

19           Sec. 17. (1) A person who violates section 3(4) is guilty of a  
20 felony punishable by imprisonment for not more than 10 years or a  
21 fine of not less than \$1,000.00 or more than \$10,000.00, or both.

22           (2) Except as provided in subsection (3), a person who  
23 violates section 3, other than section 3(4), is guilty of a  
24 misdemeanor punishable by imprisonment for not more than 1 year or  
25 a fine of not less than \$500.00 or more than \$5,000.00, or both  
26 imprisonment and a fine.

27           (3) A person who intentionally discloses or uses information

1 or data in violation of this act is guilty of a crime as follows:

2 (a) For a first offense, the person is guilty of a misdemeanor  
3 punishable by imprisonment for not more than 93 days or a fine of  
4 not more than \$500.00, or both.

5 (b) For a second or subsequent offense, the person is guilty  
6 of a felony punishable by imprisonment for not more than 4 years or  
7 a fine of not more than \$2,000.00, or both.

8 (4) A person who violates this act by making a significant  
9 reporting error is guilty of a misdemeanor punishable by  
10 imprisonment for not more than 1 year or a fine of not less than  
11 \$500.00 or more than \$5,000.00, or both imprisonment and a fine. As  
12 used in this subsection, "significant reporting error" means  
13 inaccurately reporting data or failing to report data required to  
14 be reported under this act resulting in significant risk that the  
15 public will be misled or confused by the inaccurate report or the  
16 lack of a report.