

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2016 REGULAR SESSION
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Amend printed copy of HB 120

On page 1, delete lines 2 through 22 and insert in place thereof:

"WHEREAS, the great and essential principles of liberty and free government are a cornerstone of the Commonwealth; and

WHEREAS, those values are enshrined in the Constitution of the Commonwealth of Kentucky; and

WHEREAS, Section 2 of the Kentucky Constitution establishes that absolute and arbitrary power over life, liberty, and property exists nowhere in a republic; and

WHEREAS, Section 10 of the Kentucky Constitution protects the people in their persons, houses, papers, and possessions from unreasonable searches and seizures; and

WHEREAS, Section 11 of the Kentucky Constitution guarantees the rights to a fair trial and to due process; and

WHEREAS, the development of highly capable unmanned aerial vehicles for surveillance does not alter the expectations of privacy which the Commonwealth recognizes as reasonable;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 500 IS CREATED TO READ AS FOLLOWS:

(1) Except for drones operated by the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army National Guard or Air

Amendment No. HFA 1

Sponsor: Rep. Diane St. Onge

Committee Amendment:

Signed: _____

Floor Amendment:

LRC Drafter: Trebelhorn, Matt

Adopted: _____

Date: _____

Rejected: _____

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Force National Guard, drones may not be equipped with a lethal payload.

- (2) Any business entity doing business lawfully within this state may use a drone for business purposes.*
- (3) Any institution of higher education may use a drone for educational, research, or testing purposes.*
- (4) No law enforcement agency, or agent thereof, shall use a drone to conduct a search unless:*
- (a) The law enforcement agency first obtained a search warrant signed by a judge authorizing the limited use of a drone, and the drone is used only to obtain evidence concerning the particular person or location named in the warrant; or*
- (b) Exigent circumstances exist.*
- (5) Subject to the limitations of subsection (4) of this section, any government agency may use a drone for legitimate governmental purposes.*
- (6) When a drone is used pursuant to subsection (4) of this section, it shall be operated in a manner to collect data only on the target and minimize data collection on individuals, homes, or areas other than the target. Neither facial recognition nor other biometric matching technology may be used on nontarget data collected by a drone. This data shall be confidential and is not subject to disclosure except by order of a court of competent jurisdiction.*
- (7) No evidence obtained or collected as the result of the use of a drone shall be admissible as evidence in any civil, criminal, or administrative proceeding within this state for the purpose of enforcing state or local law except for:*
- (a) Evidence collected as permitted by subsection (4) of this section; or*
- (b) Evidence which is offered against the owner or operator of a drone to show misconduct.*

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(8) No law enforcement agency shall be required to operate drones.

(9) This section may be cited as the "Citizens' Freedom from Unwarranted Surveillance Act."

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of drone harassment when, with intent to intimidate, harass, annoy, or alarm another person, he or she:

(a) Operates a drone that hovers over or lands upon the real property of another; or

(b) Uses a drone to engage in a course of conduct or repeatedly commit acts which alarm or seriously annoy such other person and which serve no legitimate purpose.

(2) Drone harassment is a violation for the first offense, a Class B misdemeanor for a second offense, and a Class A misdemeanor for a third or subsequent offense.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of unlawful use of a drone when he or she uses a drone:

(a) To commit an act of voyeurism prohibited by KRS 531.090;

(b) To commit an act of video voyeurism prohibited by KRS 531.100;

(c) In the commission of an act of burglary or trespass prohibited by KRS Chapter 511; or

(d) In the commission of an act of theft by unlawful taking or disposition prohibited by KRS 514.030.

(2) The provisions of this section are intended to be a separate offense and shall be punished in addition to the underlying offense occurring during the same course of conduct.

(3) Unlawful use of a drone is a Class B misdemeanor.

(4) The provisions of this section shall not apply to the use of a drone:

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(a) By a law enforcement officer during a lawful criminal investigation; or

(b) For any lawful commercial or personal use.

➔ Section 4. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

- (1) "Action" includes all proceedings in any court of this state;
- (2) "Animal" includes every warm-blooded living creature except a human being;
- (3) "Attorney" means attorney-at-law;
- (4) "Bequeath" and "devise" mean the same thing;
- (5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;
- (6) "Business trust" includes, except when utilized in KRS Chapter 386, a "statutory trust" as organized under KRS Chapter 386A;
- (7) "Case plan" means an individualized accountability and behavior change strategy for supervised individuals that:
 - (a) Targets and prioritizes the specific criminal risk factors of the individual based upon his or her assessment results;
 - (b) Matches the type and intensity of supervision and treatment conditions to the individual's level of risk, criminal risk factors, and individual characteristics, such as gender, culture, motivational stage, developmental stage, and learning style;
 - (c) Establishes a timetable for achieving specific behavioral goals, including a schedule for payment of victim restitution, child support, and other financial obligations; and
 - (d) Specifies positive and negative actions that will be taken in response to the supervised individual's behaviors;
- (8) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;
- (9) "Certified mail" means any method of governmental, commercial, or electronic delivery

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that allows a document or package to have proof of:

- (a) Sending the document or package;
 - (b) The date the document or package was delivered or delivery was attempted; and
 - (c) The signature of the receipt of the document or package;
- (10) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;
- (11) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;
- (12) "Criminal risk factors" are characteristics and behaviors that, when addressed or changed, affect a person's risk for committing crimes. The characteristics may include but are not limited to the following risk and criminogenic need factors: antisocial behavior; antisocial personality; criminal thinking; criminal associates; dysfunctional family; low levels of employment or education; poor use of leisure and recreation; and substance abuse;
- (13) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;
- (14) "Directors," when applied to corporations, includes managers or trustees;
- (15) "Domestic," when applied to a corporation, partnership, business trust, or limited liability company, means all those incorporated or formed by authority of this state;
- (16) "Domestic animal" means any animal converted to domestic habitat;
- (17) "Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism when implemented competently;
- (18) "Federal" refers to the United States;
- (19) "Foreign," when applied to a corporation, partnership, limited partnership, business trust, statutory trust, or limited liability company, includes all those incorporated or formed by

- authority of any other state;
- (20) "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;
- (21) "Graduated sanction" means any of a wide range of accountability measures and programs for supervised individuals, including but not limited to electronic monitoring; drug and alcohol testing or monitoring; day or evening reporting centers; restitution centers; disallowance of future earned compliance credits; rehabilitative interventions such as substance abuse or mental health treatment; reporting requirements to probation and parole officers; community service or work crews; secure or unsecure residential treatment facilities or halfway houses; and short-term or intermittent incarceration;
- (22) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;
- (23) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;
- (24) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;
- (25) "Legatee" and "devisee" convey the same idea;
- (26) "May" is permissive;
- (27) "Month" means calendar month;
- (28) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;

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- (29) "Owner" when applied to any animal, means any person having a property interest in such animal;
- (30) "Partnership" includes both general and limited partnerships;
- (31) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests;
- (32) "Penitentiary" includes all of the state penal institutions except the houses of reform;
- (33) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, joint stock companies, and limited liability companies;
- (34) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;
- (35) "Pretrial risk assessment" means an objective, research-based, validated assessment tool that measures a defendant's risk of flight and risk of anticipated criminal conduct while on pretrial release pending adjudication;
- (36) "Registered mail" means any governmental, commercial, or electronic method of delivery that allows a document or package to have:
- (a) Its chain of custody recorded in a register to enable its location to be tracked;
 - (b) Insurance available to cover its loss; and
 - (c) The signature of the recipient of the document or package available to the sender;
- (37) "Regular election" means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;
- (38) "Risk and needs assessment" or "validated risk and needs assessment" means an actuarial tool scientifically proven to determine a person's risk to reoffend and criminal risk factors,

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that when properly addressed, can reduce that person's likelihood of committing future criminal behavior;

- (39) "Shall" is mandatory;
- (40) "State" when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;
- (41) "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;
- (42) "Supervised individual" means an individual placed on probation by a court or serving a period of parole or post-release supervision from prison or jail;
- (43) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;
- (44) "Treatment" when used in a criminal justice context, means targeted interventions that focus on criminal risk factors in order to reduce the likelihood of criminal behavior. Treatment options may include but shall not be limited to community-based programs that are consistent with evidence-based practices; cognitive-behavioral programs; faith-based programs; inpatient and outpatient substance abuse or mental health programs; and other available prevention and intervention programs that have been scientifically proven to

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- produce reductions in recidivism when implemented competently. "Treatment" does not include medical services;
- (45) "United States" includes territories, outlying possessions, and the District of Columbia;
- (46) "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;
- (47) "Violate" includes failure to comply with;
- (48) "Will" includes codicils; "last will" means last will and testament;
- (49) "Year" means calendar year;
- (50) "City" includes town;
- (51) Appropriation-related terms are defined as follows:
- (a) "Appropriation" means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in KRS Chapter 48;
- (b) "Appropriation provision" means a section of any enactment by the General Assembly which is not provided for by KRS Chapter 48 and which authorizes the expenditure of public funds other than by a general appropriation bill;
- (c) "General appropriation bill" means an enactment by the General Assembly that authorizes the expenditure of public funds in a branch budget bill as provided for in KRS Chapter 48;
- (52) "Mediation" means a nonadversarial process in which a neutral third party encourages and helps disputing parties reach a mutually acceptable agreement. Recommendations by mediators are not binding on the parties unless the parties enter into a settlement agreement

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incorporating the recommendations;

- (53) "Biennium" means the two (2) year period commencing on July 1 in each even-numbered year and ending on June 30 in the ensuing even-numbered year;
- (54) "Branch budget bill" or "branch budget" means an enactment by the General Assembly which provides appropriations and establishes fiscal policies and conditions for the biennial financial plan for the judicial branch, the legislative branch, and the executive branch, which shall include a separate budget bill for the Transportation Cabinet;
- (55) "AVIS" means the automated vehicle information system established and maintained by the Transportation Cabinet to collect titling and registration information on vehicles and boats and information on holders of motor vehicle operator's licenses and personal identification cards; ~~and~~
- (56) "Cooperative," except in KRS Chapter 272, includes a limited cooperative association; **and**
- (57) "Drone" means any unmanned aircraft:**

- (a) For which registration with the Federal Aviation Administration is required pursuant to 14 C.F.R. secs. 48.1 et seq; and**
- (b) That is labeled or should be labeled with an N-number or other unique identifying number issued by the Federal Aviation Administration pursuant to the requirements of 14 C.F.R. sec. 48.205."**