

1 AN ACT relating to public safety.

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

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

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

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

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

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

15 NOW, THEREFORE,

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

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

19 *(1) Except for drones operated by the United States Army, Navy, Marine Corps, Air*
20 *Force, or Coast Guard, or a reserve component thereof, or of the Army National*
21 *Guard or Air Force National Guard, drones may not be equipped with a lethal*
22 *payload.*

23 *(2) Any business entity doing business lawfully within this state may use a drone for*
24 *business purposes, in compliance with 14 C.F.R. pt. 107.*

25 *(3) Any recreational user may operate a drone within this state, in compliance with*
26 *14 C.F.R. pt. 101.*

27 *(4) Any institution of higher education may use a drone for educational, research, or*

- 1 testing purposes.
- 2 (5) No law enforcement agency, or agent thereof, shall use a drone to conduct a
3 search unless:
- 4 (a) The law enforcement agency first obtained a search warrant signed by a
5 judge authorizing the limited use of a drone, and the drone is used only to
6 obtain evidence concerning the particular person or location named in the
7 warrant; or
- 8 (b) Exigent circumstances exist.
- 9 (6) Subject to the limitations of subsection (5) of this section, any government agency
10 may use a drone for legitimate governmental purposes.
- 11 (7) When a drone is used pursuant to subsection (5) of this section, it shall be
12 operated in a manner to collect data only on the target and minimize data
13 collection on individuals, homes, or areas other than the target. Neither facial
14 recognition nor other biometric matching technology may be used on nontarget
15 data collected by a drone. This data shall be confidential and is not subject to
16 disclosure except by order of a court of competent jurisdiction.
- 17 (8) No evidence obtained or collected as the result of the use of a drone shall be
18 admissible as evidence in any civil, criminal, or administrative proceeding within
19 this state for the purpose of enforcing state or local law except for:
- 20 (a) Evidence collected as permitted by subsection (5) of this section; or
- 21 (b) Evidence which is offered against the owner or operator of a drone to show
22 misconduct.
- 23 (9) No law enforcement agency shall be required to operate drones.
- 24 (10) Operation of a drone in violation of subsection (2) or (3) of this section shall be a
25 Class B misdemeanor for the first offense and a Class A misdemeanor for the
26 second or subsequent offense.
- 27 (11) This section may be cited as the "Citizens' Freedom from Unwarranted

1 **Surveillance Act."**

2 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 501 IS CREATED TO
3 READ AS FOLLOWS:

4 **A person is guilty of an offense committed with the aid of a drone if the drone is under**
5 **his or her control and the conduct would have given rise to criminal liability for the**
6 **offense if performed directly by the person.**

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

9 **(1) As used in this section, "emergency responder" means state or local law**
10 **enforcement personnel, fire department personnel, corrections officers, and**
11 **emergency medical personnel.**

12 **(2) No person shall intentionally obstruct or disrupt an emergency responder from**
13 **performing his or her official duties.**

14 **(3) Obstructing an emergency responder shall be a Class B misdemeanor for a first**
15 **offense, and a Class A misdemeanor for a second or subsequent offense.**

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

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

- 18 (1) "Action" includes all proceedings in any court of this state;
- 19 (2) "Animal" includes every warm-blooded living creature except a human being;
- 20 (3) "Attorney" means attorney-at-law;
- 21 (4) "Bequeath" and "devise" mean the same thing;
- 22 (5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal
23 estate, or both;
- 24 (6) "Business trust" includes, except when utilized in KRS Chapter 386, a "statutory
25 trust" as organized under KRS Chapter 386A;
- 26 (7) "Case plan" means an individualized accountability and behavior change strategy
27 for supervised individuals that:

- 1 (a) Targets and prioritizes the specific criminal risk factors of the individual
2 based upon his or her assessment results;
- 3 (b) Matches the type and intensity of supervision and treatment conditions to the
4 individual's level of risk, criminal risk factors, and individual characteristics,
5 such as gender, culture, motivational stage, developmental stage, and learning
6 style;
- 7 (c) Establishes a timetable for achieving specific behavioral goals, including a
8 schedule for payment of victim restitution, child support, and other financial
9 obligations; and
- 10 (d) Specifies positive and negative actions that will be taken in response to the
11 supervised individual's behaviors;
- 12 (8) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;
- 13 (9) "Certified mail" means any method of governmental, commercial, or electronic
14 delivery that allows a document or package to have proof of:
- 15 (a) Sending the document or package;
- 16 (b) The date the document or package was delivered or delivery was attempted;
17 and
- 18 (c) The signature of the receipt of the document or package;
- 19 (10) "Company" may extend and be applied to any corporation, company, person,
20 partnership, joint stock company, or association;
- 21 (11) "Corporation" may extend and be applied to any corporation, company, partnership,
22 joint stock company, or association;
- 23 (12) "Criminal risk factors" are characteristics and behaviors that, when addressed or
24 changed, affect a person's risk for committing crimes. The characteristics may
25 include but are not limited to the following risk and criminogenic need factors:
26 antisocial behavior; antisocial personality; criminal thinking; criminal associates;
27 dysfunctional family; low levels of employment or education; poor use of leisure

- 1 and recreation; and substance abuse;
- 2 (13) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable
3 physical pain, suffering, or death is caused or permitted;
- 4 (14) "Directors," when applied to corporations, includes managers or trustees;
- 5 (15) "Domestic," when applied to a corporation, partnership, business trust, or limited
6 liability company, means all those incorporated or formed by authority of this state;
- 7 (16) "Domestic animal" means any animal converted to domestic habitat;
- 8 (17) "Evidence-based practices" means policies, procedures, programs, and practices
9 proven by scientific research to reliably produce reductions in recidivism when
10 implemented competently;
- 11 (18) "Federal" refers to the United States;
- 12 (19) "Foreign," when applied to a corporation, partnership, limited partnership, business
13 trust, statutory trust, or limited liability company, includes all those incorporated or
14 formed by authority of any other state;
- 15 (20) "Generally accepted accounting principles" are those uniform minimum standards
16 of and guidelines to financial accounting and reporting as adopted by the National
17 Council on Governmental Accounting, under the auspices of the Municipal Finance
18 Officers Association and by the Financial Accounting Standards Board, under the
19 auspices of the American Institute of Certified Public Accountants;
- 20 (21) "Graduated sanction" means any of a wide range of accountability measures and
21 programs for supervised individuals, including but not limited to electronic
22 monitoring; drug and alcohol testing or monitoring; day or evening reporting
23 centers; restitution centers; disallowance of future earned compliance credits;
24 rehabilitative interventions such as substance abuse or mental health treatment;
25 reporting requirements to probation and parole officers; community service or work
26 crews; secure or unsecure residential treatment facilities or halfway houses; and
27 short-term or intermittent incarceration;

- 1 (22) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals,"
2 means any nonprofit corporation, organized under the laws of this state and having
3 as its primary purpose the prevention of cruelty to animals;
- 4 (23) "Issue," as applied to the descent of real estate, includes all the lawful lineal
5 descendants of the ancestors;
- 6 (24) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights
7 thereto and interest therein, other than a chattel interest;
- 8 (25) "Legatee" and "devisee" convey the same idea;
- 9 (26) "May" is permissive;
- 10 (27) "Month" means calendar month;
- 11 (28) "Oath" includes "affirmation" in all cases in which an affirmation may be
12 substituted for an oath;
- 13 (29) "Owner" when applied to any animal, means any person having a property interest
14 in such animal;
- 15 (30) "Partnership" includes both general and limited partnerships;
- 16 (31) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and
17 urban-county government correctional officers, marshals, policemen, and other
18 persons with similar authority to make arrests;
- 19 (32) "Penitentiary" includes all of the state penal institutions except the houses of
20 reform;
- 21 (33) "Person" may extend and be applied to bodies-politic and corporate, societies,
22 communities, the public generally, individuals, partnerships, joint stock companies,
23 and limited liability companies;
- 24 (34) "Personal estate" includes chattels, real and other estate that passes to the personal
25 representative upon the owner dying intestate;
- 26 (35) "Pretrial risk assessment" means an objective, research-based, validated assessment
27 tool that measures a defendant's risk of flight and risk of anticipated criminal

- 1 conduct while on pretrial release pending adjudication;
- 2 (36) "Registered mail" means any governmental, commercial, or electronic method of
3 delivery that allows a document or package to have:
- 4 (a) Its chain of custody recorded in a register to enable its location to be tracked;
- 5 (b) Insurance available to cover its loss; and
- 6 (c) The signature of the recipient of the document or package available to the
7 sender;
- 8 (37) "Regular election" means the election in even-numbered years at which members of
9 Congress are elected and the election in odd-numbered years at which state officers
10 are elected;
- 11 (38) "Risk and needs assessment" or "validated risk and needs assessment" means an
12 actuarial tool scientifically proven to determine a person's risk to reoffend and
13 criminal risk factors, that when properly addressed, can reduce that person's
14 likelihood of committing future criminal behavior;
- 15 (39) "Shall" is mandatory;
- 16 (40) "State" when applied to a part of the United States, includes territories, outlying
17 possessions, and the District of Columbia; "any other state" includes any state,
18 territory, outlying possession, the District of Columbia, and any foreign government
19 or country;
- 20 (41) "State funds" or "public funds" means sums actually received in cash or negotiable
21 instruments from all sources unless otherwise described by any state agency, state-
22 owned corporation, university, department, cabinet, fiduciary for the benefit of any
23 form of state organization, authority, board, bureau, interstate compact,
24 commission, committee, conference, council, office, or any other form of
25 organization whether or not the money has ever been paid into the Treasury and
26 whether or not the money is still in the Treasury if the money is controlled by any
27 form of state organization, except for those funds the management of which is to be

- 1 reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605,
2 and 42.615;
- 3 (42) "Supervised individual" means an individual placed on probation by a court or
4 serving a period of parole or post-release supervision from prison or jail;
- 5 (43) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted
6 for an oath;
- 7 (44) "Treatment" when used in a criminal justice context, means targeted interventions
8 that focus on criminal risk factors in order to reduce the likelihood of criminal
9 behavior. Treatment options may include but shall not be limited to community-
10 based programs that are consistent with evidence-based practices; cognitive-
11 behavioral programs; faith-based programs; inpatient and outpatient substance
12 abuse or mental health programs; and other available prevention and intervention
13 programs that have been scientifically proven to produce reductions in recidivism
14 when implemented competently. "Treatment" does not include medical services;
- 15 (45) "United States" includes territories, outlying possessions, and the District of
16 Columbia;
- 17 (46) "Vacancy in office," or any equivalent phrase, means such as exists when there is an
18 unexpired part of a term of office without a lawful incumbent therein, or when the
19 person elected or appointed to an office fails to qualify according to law, or when
20 there has been no election to fill the office at the time appointed by law; it applies
21 whether the vacancy is occasioned by death, resignation, removal from the state,
22 county or district, or otherwise;
- 23 (47) "Violate" includes failure to comply with;
- 24 (48) "Will" includes codicils; "last will" means last will and testament;
- 25 (49) "Year" means calendar year;
- 26 (50) "City" includes town;
- 27 (51) Appropriation-related terms are defined as follows:

- 1 (a) "Appropriation" means an authorization by the General Assembly to expend,
2 from public funds, a sum of money not in excess of the sum specified, for the
3 purposes specified in the authorization and under the procedure prescribed in
4 KRS Chapter 48;
- 5 (b) "Appropriation provision" means a section of any enactment by the General
6 Assembly which is not provided for by KRS Chapter 48 and which authorizes
7 the expenditure of public funds other than by a general appropriation bill;
- 8 (c) "General appropriation bill" means an enactment by the General Assembly
9 that authorizes the expenditure of public funds in a branch budget bill as
10 provided for in KRS Chapter 48;
- 11 (52) "Mediation" means a nonadversarial process in which a neutral third party
12 encourages and helps disputing parties reach a mutually acceptable agreement.
13 Recommendations by mediators are not binding on the parties unless the parties
14 enter into a settlement agreement incorporating the recommendations;
- 15 (53) "Biennium" means the two (2) year period commencing on July 1 in each even-
16 numbered year and ending on June 30 in the ensuing even-numbered year;
- 17 (54) "Branch budget bill" or "branch budget" means an enactment by the General
18 Assembly which provides appropriations and establishes fiscal policies and
19 conditions for the biennial financial plan for the judicial branch, the legislative
20 branch, and the executive branch, which shall include a separate budget bill for the
21 Transportation Cabinet;
- 22 (55) "AVIS" means the automated vehicle information system established and
23 maintained by the Transportation Cabinet to collect titling and registration
24 information on vehicles and boats and information on holders of motor vehicle
25 operator's licenses and personal identification cards;~~and~~
- 26 (56) "Cooperative," except in KRS Chapter 272, includes a limited cooperative
27 association; ***and***

1 (57) "Drone" means an aircraft that is operated without the possibility of direct
2 human interaction from within or on the aircraft.

3 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO
4 READ AS FOLLOWS:

5 While federal rulemaking on critical infrastructure and drone usage is incomplete,
6 identification of Kentucky's critical infrastructure shall be established by the Kentucky
7 Office of Homeland Security.

8 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 511 IS CREATED TO
9 READ AS FOLLOWS:

10 (1) A person is guilty of trespass on critical infrastructure he or she knowingly enters
11 or remains unlawfully in or upon, or knowingly causes a drone to enter or fly
12 above, real property which has been identified by the Kentucky Office of
13 Homeland Security as critical infrastructure.

14 (2) Trespass on critical infrastructure is a Class B misdemeanor for the first offense
15 and a Class A misdemeanor for the second or subsequent offense.

16 ➔Section 7. The General Assembly recognizes that the issue of drone usage in the
17 vicinity of critical infrastructure is a matter of national security, and recognizes that the
18 Federal Aviation Administration and Department of Homeland Security are establishing a
19 uniform nationwide process to identify critical infrastructure facilities for the purpose of
20 implementing drone-restricted airspace above those facilities.