

# HOUSE BILL No. 5026

October 27, 2015, Introduced by Reps. Runestad, Hooker, McBroom, Barrett, Tedder, Glenn, Chatfield, Aaron Miller, Lucido and Franz and referred to the Committee on Government Operations.

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:

Sec. 1. As used in this act:

(a) "Agent of this state or a political subdivision of this state" means this state or a local unit of government of this state, including, but not limited to, a law enforcement agency or any other investigative entity, agency, department, division,

bureau, board, or commission, or an individual acting or purporting to act for or on behalf of this state or local unit of government.

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

(i) The department of state police.

(ii) The department of natural resources.

(iii) The county sheriff department.

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

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

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

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

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

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

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

(2) A person who uses an unmanned aerial vehicle shall comply with all Federal Aviation Administration requirements and guidelines.

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

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

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

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

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

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

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

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

20           (c) Pursuant to a search warrant issued under 1966 PA 189, MCL  
21 780.651 to 780.659, to collect information from private property.

22           (d) Pursuant to an order issued by a court of competent  
23 jurisdiction if the agent of this state or a political subdivision  
24 of this state offers specific and articulable facts demonstrating  
25 reasonable suspicion of criminal activity, that the operation of  
26 the unmanned aerial vehicle will uncover that criminal activity,  
27 and that alternative methods of data collection are either cost-

1 prohibitive or present a significant risk to any person's bodily  
2 safety. An order issued under this subdivision shall not be issued  
3 for a period longer than 48 hours. Extensions of an order may be  
4 granted but shall be no longer than the authorizing judge considers  
5 necessary to achieve the purposes for which it was granted and in  
6 no event for longer than 30 days.

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

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

23 (2) If an agent of this state or a political subdivision of  
24 this state uses an unmanned aerial vehicle, information acquired  
25 and evidence derived from the operation shall not be admitted into  
26 evidence in a trial, hearing, or other proceeding in or before a  
27 court, grand jury, department, officer, agency, regulatory body,

1 legislative committee, or other authority of this state or a  
2 political subdivision of this state if the disclosure of that  
3 information would be in violation of this act.

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

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

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

19       (c) This state or a political subdivision of this state has a  
20 written policy governing its use of an unmanned aerial vehicle.

21       (2) In the absence of a warrant or order, the operation of an  
22 unmanned aerial vehicle carried out under subsection (1) shall  
23 immediately terminate if the information sought is obtained or if  
24 the application for the warrant or order is denied, whichever  
25 occurs earlier. If the application for a warrant or order is  
26 denied, the information obtained from the operation of an unmanned  
27 aerial vehicle shall be treated as having been obtained in

1 violation of this act and an inventory shall be served on the  
2 person named in the application.

3 (3) An unmanned aerial vehicle shall only be operated to  
4 target private property if a search warrant is first obtained under  
5 1966 PA 189, MCL 780.651 to 780.659, to permit that operation.

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

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

16 (b) Flight from prosecution.

17 (c) Destruction of or tampering with evidence.

18 (d) Intimidation of potential witnesses.

19 (e) Otherwise seriously jeopardizing an investigation or  
20 unduly delaying a trial.

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

25 (3) Upon expiration of the period of delay of notification, an  
26 agent of this state or a political subdivision of this state shall  
27 serve, or deliver by registered or first-class mail, a copy of the

1 warrant or order upon the person or persons upon whom information  
2 was collected together with notice that states with reasonable  
3 specificity the nature of the law enforcement inquiry and informs  
4 the person or persons that notification was delayed, what  
5 governmental entity or court made the certification or  
6 determination pursuant to which that delay occurred, and which  
7 provision of this section allowed the delay.

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

24       (2) A willful disclosure or use by an agent of this state or a  
25 political subdivision of this state of information beyond the  
26 extent permitted by this act is a violation of this act for  
27 purposes of this section.

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

9           Sec. 15. (1) A person who violates section 3(4) is guilty of a  
10 felony punishable by imprisonment for not more than 5 years or a  
11 fine of not less than \$1,000.00 or more than \$10,000.00, or both.

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

17           (3) A person who intentionally discloses or uses information  
18 or data in violation of this act is guilty of a crime as follows:

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

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

25           Sec. 17. (1) Nothing in this act prohibits the state  
26 transportation department from using a UAV in the performance of  
27 any of its powers, duties, and functions as authorized by law if



1 the state transportation department complies with all of the  
2 following conditions:

3 (a) The use of the UAV complies with section 3(2), (4), and  
4 (5).

5 (b) The use of the UAV is for the sole purpose of inspecting,  
6 monitoring, examining, or otherwise maintaining property under the  
7 jurisdiction of the state transportation department and is targeted  
8 at property under the jurisdiction of the state transportation  
9 department.

10 (c) The state transportation department complies with section  
11 5 with regard to data collected about a person.

12 (d) The state transportation department complies with section  
13 7(1) with regard to data collected on property other than targeted  
14 property.

15 (2) Nothing in this act shall be construed to supersede or  
16 modify 1964 PA 170, MCL 691.1401 to 691.1419.

17 (3) Nothing in this act prevents the state transportation  
18 department from using data collected in accordance with this  
19 section in a civil or administrative proceeding, hearing, or trial  
20 to which the state transportation department is a party.