

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1613

Introduced by

Representatives Hendrix, Christianson, Koppelman, VanWinkle, Toman

Senators Castaneda, Magrum, Paulson

1 A BILL for an Act to amend and reenact sections 29-29.4-01, 29-29.4-02, 29-29.4-03,
2 29-29.4-04, 29-29.4-05, and 29-29.4-06 of the North Dakota Century Code, relating to law
3 enforcement use of a robot.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 29-29.4-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **29-29.4-01. Definitions.**

8 As used in this chapter:

- 9 1. "Flight data" means imaging or other observation recording.
- 10 2. "Flight information" means flight duration, flight path, and mission objective.
- 11 3. "Law enforcement agency or agents" has the meaning provided for law enforcement
12 officer in section 12.1-01-04.
- 13 4. "Robot" means an artificial object or system that senses, processes, and acts using
14 technology that is remote operated, semiautonomous, or autonomous. The term
15 includes the associated elements, communication links, and associated artificial-
16 intelligence technologiesdoes not include a license plate reader used for the purpose
17 of vehicle identification and traffic law enforcement.
- 18 5. "Unmanned aerial vehicle" means any aerial vehicle that is operated without the
19 possibility of direct human intervention within or on the aerial vehicle. The term does
20 not include satellites.

1 ~~5-6.~~ "Unmanned aerial vehicle system" means an unmanned aerial vehicle and associated
2 elements, including communication links and the components that control the
3 unmanned aerial vehicle, which are required for the pilot in command to operate safely
4 and efficiently in state airspace.

5 **SECTION 2. AMENDMENT.** Section 29-29.4-02 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **29-29.4-02. Limitations on use of unmanned aerial vehicle ~~systems~~systems and**
8 **robots.**

- 9 1. Information obtained from an unmanned aerial vehicle or robot is not admissible in a
10 prosecution or proceeding within the state unless the information was obtained:
11 a. Pursuant to the authority of a search warrant; or
12 b. In accordance with exceptions to the warrant requirement.
13 2. Information obtained from the operation of an unmanned aerial vehicle or robot may
14 not be used in an affidavit of probable cause in an effort to obtain a search warrant,
15 unless the information was obtained under the circumstances described in subdivision
16 a or b of subsection 1 or was obtained through the monitoring of public lands or
17 international borders.

18 **SECTION 3. AMENDMENT.** Section 29-29.4-03 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **29-29.4-03. Warrant requirements.**

21 A warrant for the use of an unmanned aerial vehicle or robot must satisfy the requirements
22 of the Constitution of North Dakota. In addition, the warrant must contain a data collection
23 statement that includes:

- 24 1. The persons that will have the power to authorize the use of the unmanned aerial
25 vehicle or robot;
26 2. The locations in which the unmanned aerial vehicle system or robot will operate;
27 3. The maximum period for which the unmanned aerial vehicle system or robot will
28 operate in each flight; and
29 4. Whether the unmanned aerial vehicle system or robot will collect information or data
30 about individuals or groups of individuals, and if so:

- 1 a. The circumstances under which the unmanned aerial vehicle system or robot will
- 2 be used; and
- 3 b. The specific kinds of information or data the unmanned aerial vehicle system or
- 4 robot will collect about individuals and how that information or data, as well as
- 5 conclusions drawn from that information or data, will be used, disclosed, and
- 6 otherwise handled, including:
- 7 (1) The period for which the information or data will be retained; and
- 8 (2) Whether the information or data will be destroyed, and if so, when and how
- 9 the information or data will be destroyed.

10 **SECTION 4. AMENDMENT.** Section 29-29.4-04 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **29-29.4-04. Exceptions.**

13 This chapter does not prohibit any use of an unmanned aerial vehicle or robot for
14 surveillance during the course of:

- 15 1. Patrol of national borders. The use of an unmanned aerial vehicle or robot to patrol
- 16 within twenty-five miles [40.23 kilometers] of a national border, for purposes of policing
- 17 that border to prevent or deter the illegal entry of any individual, illegal substance, or
- 18 contraband.
- 19 2. Exigent circumstances. The use of an unmanned aerial vehicle or robot by a law
- 20 enforcement agency is permitted when exigent circumstances exist. For the purposes
- 21 of this subsection, exigent circumstances exist when a law enforcement agency
- 22 possesses reasonable suspicion that absent swift preventative action, there is an
- 23 imminent danger to life or bodily harm.
- 24 3. An environmental or weather-related catastrophe. The use of an unmanned aerial
- 25 vehicle or robot by state or local authorities to preserve public safety, protect property,
- 26 survey environmental damage to determine if a state of emergency should be
- 27 declared, or conduct surveillance for the assessment and evaluation of environmental
- 28 or weather-related damage, erosion, flood, or contamination.
- 29 4. Research, education, training, testing, or development efforts undertaken by or in
- 30 conjunction with a school or institution of higher education within the state and its
- 31 political subdivisions, nor to public and private collaborators engaged in mutually

supported efforts involving research, education, training, testing, or development related to unmanned aerial vehicle systems ~~or~~, unmanned aerial vehicle system technologies, or robot and potential applications.

SECTION 5. AMENDMENT. Section 29-29.4-05 of the North Dakota Century Code is amended and reenacted as follows:

29-29.4-05. Prohibited use.

1. A law enforcement agency may not authorize the use of, including granting a permit to use, an unmanned aerial vehicle or robot armed with any lethal weapons.
2. This chapter prohibits any use of an unmanned aerial vehicle or robot for:
 - a. Domestic use in private surveillance. A law enforcement agency may not authorize the use of, including granting a permit to use, an unmanned aerial vehicle or robot to permit any private person to conduct surveillance on any other private person without the express, informed consent of that other person or the owner of any real property on which that other private person is present.
 - b. Surveillance of the lawful exercise of constitutional rights, unless the surveillance is otherwise allowed under this chapter.

SECTION 6. AMENDMENT. Section 29-29.4-06 of the North Dakota Century Code is amended and reenacted as follows:

29-29.4-06. Documentation of unmanned aerial vehicle or robot use.

1. The person authorized to conduct the surveillance under this chapter shall document all use of an unmanned aerial vehicle or robot for surveillance. The person shall document all surveillance flights as to duration, flight path, and mission objectives.
2. The flight information must be verified as accurate and complete by the supervising person authorized by a court to conduct the surveillance.
3. The flight information required under this section must be retained for five years.
4. Any imaging or any other forms of data lawfully obtained under this chapter which are not accompanied by a reasonable and articulable suspicion that the images or data contain evidence of a crime, or are relevant to an ongoing investigation or trial, may not be retained for more than ninety days.
5. Except for the operational capabilities of the unmanned aerial vehicle system or robot and other operational information strictly related to the technical conduct and physical

- 1 security of the surveillance operation, a person accused of a crime that includes
2 evidence gathered through the use of an unmanned aerial vehicle system or robot
3 surveillance may obtain all information relating to the person acquired in the course of
4 the surveillance through subpoena and discovery proceedings available in criminal
5 proceedings.
- 6 6. Any other person that has an interest in obtaining the documentation required by this
7 section may obtain that documentation pursuant to chapter 44-04.