

House Study Bill 88 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
PUBLIC SAFETY BILL BY
CHAIRPERSON BAUDLER)

A BILL FOR

1 An Act relating to the use of unmanned aerial vehicles, and
2 providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 708.11, subsection 1, paragraph b, Code
2 2017, is amended to read as follows:

3 *b. "Course of conduct"* means repeatedly maintaining a visual
4 or physical proximity to a person without legitimate purpose or
5 repeatedly conveying oral or written threats, threats implied
6 by conduct, or a combination thereof, directed at or toward a
7 person. "Course of conduct" includes the use of an unmanned
8 aerial vehicle, as defined in section 708C.1, to maintain
9 visual or physical proximity to a person as provided in this
10 paragraph.

11 Sec. 2. Section 708A.1, subsection 1, Code 2017, is amended
12 to read as follows:

13 1. *"Material support or resources"* means knowingly assisting
14 or providing money, financial securities, financial services,
15 lodging, training, safe houses, false documentation or
16 identification, communication equipment, facilities, weapons,
17 lethal substances, explosives, personnel, transportation,
18 unmanned aerial vehicles, and other physical assets, except
19 medicine or religious materials, for the purpose of assisting a
20 person in the commission of an act of terrorism.

21 Sec. 3. **NEW SECTION. 708C.1 Use of unmanned aerial vehicle**
22 **— exceptions — penalty.**

23 1. As used in this section, unless the context otherwise
24 requires:

25 *a. "Agency"* means a state agency or political subdivision of
26 this state or any person acting on behalf of a state agency or
27 political subdivision.

28 *b. "Dangerous weapon"* includes an instrument or device
29 designed for causing damage to property.

30 *c. "Image"* means any capturing of sound waves, thermal,
31 infrared, ultraviolet, visible light, or other electromagnetic
32 wave, odor, or other conditions existing on or about real
33 property in this state or a person located on that property.

34 *d. "Unmanned aerial vehicle"* means an aircraft that is
35 operated without the possibility of direct human intervention

1 from within or on the aircraft.

2 2. *Agencies.*

3 a. Except as provided in this paragraph "a", an agency shall
4 not use an unmanned aerial vehicle to capture an image or to
5 receive or disclose an image acquired through the use of an
6 unmanned aerial vehicle.

7 (1) An agency may use an unmanned aerial vehicle to capture
8 an image or to receive or disclose an image acquired through
9 the use of an unmanned aerial vehicle in connection with a
10 search warrant that has been issued under the conditions of
11 section 808.2 authorizing the use on private property.

12 (2) An agency may use an unmanned aerial vehicle without
13 preserving any images under the following circumstances:

14 (a) When searching for a suspect who committed a crime.

15 (b) When supporting the tactical operation of another
16 agency.

17 (c) For crowd monitoring at events.

18 (3) (a) An agency may use an unmanned aerial vehicle if an
19 emergency exists based on a reasonable belief that an imminent
20 threat exists to the life or safety of a person and within
21 forty-eight hours of the emergency use a supervisory official
22 of the agency files a sworn statement with the district court
23 detailing the grounds for using the unmanned aerial vehicle in
24 the emergency.

25 (b) If the supervisory official fails to file the sworn
26 statement as required by this subparagraph (3), the supervisory
27 official shall be removed from any future involvement with the
28 agency's use of an unmanned aerial vehicle, and the agency
29 shall be required to obtain approval from the applicable
30 supervisory body under paragraph "c" prior to any future use of
31 an unmanned aerial vehicle by the agency.

32 (4) An agency may use an unmanned aerial vehicle on public
33 property.

34 b. An agency shall not archive data captured or received
35 through the use of an unmanned aerial vehicle unless the data

1 was captured or received during an operation in conjunction
2 with a search warrant or during the existence of an emergency
3 under paragraph "a", subparagraph (3), but only for forty-eight
4 hours except upon entry of a district court order requiring the
5 archiving of the data for more than forty-eight hours.

6 *c.* The acquisition of an unmanned aerial vehicle by a
7 state agency shall be approved by the general assembly prior
8 to such an acquisition. The acquisition of an unmanned aerial
9 vehicle at the county, city, or local government level shall be
10 approved by the county board of supervisors, city council, or
11 other supervisory legislative body that oversees the political
12 subdivision.

13 *d.* An agency shall adopt best practices to ensure that
14 unauthorized access to an unmanned aerial vehicle or images
15 captured or received by the unmanned aerial vehicle does not
16 occur.

17 3. *Persons.*

18 *a.* A person shall not use an unmanned aerial vehicle to
19 capture an image of an individual or private property with
20 the intent to conduct surveillance, or to stalk, follow, or
21 intimidate another person.

22 *b.* A person may use an unmanned aerial vehicle to capture
23 or receive an image of an individual if the individual is on
24 public property, or the person has received permission from the
25 individual to capture or receive such an image.

26 *c.* A person shall not use an unmanned aerial vehicle
27 equipped with an instrument that is capable of doing any of the
28 following unless the unmanned aerial vehicle is used over the
29 real property owned by the person or the person has permission
30 from the owner or a tenant of the real property to use the
31 unmanned aerial vehicle over the real property:

- 32 (1) Emitting a peculiar sound or excessive noise.
- 33 (2) Spraying a liquid or gas.
- 34 (3) Dropping an object.

35 4. *Accredited postsecondary institutions.* An accredited

1 postsecondary institution, other than a special security
2 officer or a security agency employed by or otherwise connected
3 with the institution, may use an unmanned aerial vehicle to
4 capture or receive an image for research purposes, or to retain
5 or distribute such an image.

6 5. An unmanned aerial vehicle shall not be equipped with a
7 dangerous weapon.

8 6. This section does not apply to an operation, exercise,
9 or mission of any branch of the United States military, or the
10 Iowa national guard.

11 7. *a.* A person who violates this section commits an
12 aggravated misdemeanor.

13 *b.* A person who violates this section and causes serious
14 injury to another person commits a class "D" felony.

15 *c.* A person who violates this section and causes death to
16 another person commits a class "C" felony.

17 8. *a.* On June 30, 2018, and every June 30 thereafter, each
18 state agency and each political subdivision, if required to
19 do so by the supervising legislative body of the political
20 subdivision, that uses an unmanned aerial vehicle shall provide
21 the department of public safety with the following information:

22 (1) The number of instances in which an unmanned aerial
23 vehicle was used by the agency and the purpose of each use.

24 (2) The number of crime investigations aided by the use of
25 an unmanned aerial vehicle and a description of how the use of
26 an unmanned aerial vehicle aided each investigation.

27 (3) The number of instances an unmanned aerial vehicle was
28 used for purposes other than in a criminal investigation and a
29 description of how the use of the unmanned aerial vehicle aided
30 in that purpose.

31 (4) The annual cost of the unmanned aerial vehicle program
32 of the agency.

33 *b.* The department of public safety shall compile the
34 information provided by the agencies under this subsection and
35 present a report detailing the use of unmanned aerial vehicles

1 to the legislative standing committees on government oversight
2 by January 15, 2019, and every January 15 thereafter.

3 Sec. 4. Section 717A.1, Code 2017, is amended by adding the
4 following new subsections:

5 NEW SUBSECTION. 6A. *"Control"* includes the actions of a
6 person using an unmanned aerial vehicle.

7 NEW SUBSECTION. 10A. *"Enter"* includes the actions of a
8 person using an unmanned aerial vehicle.

9 NEW SUBSECTION. 14. *"Unmanned aerial vehicle"* means the
10 same as defined in section 708C.1.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill relates to the use of unmanned aerial vehicles by
15 governmental agencies and other persons.

16 The bill defines "unmanned aerial vehicle" to mean an
17 aircraft that is operated without the possibility of direct
18 human intervention from within or on the aircraft.

19 The bill defines "image" to mean any capturing of sound
20 waves, thermal, infrared, ultraviolet, visible light, or other
21 electromagnetic wave, odor, or other conditions existing on or
22 about real property in this state or a person located on that
23 property.

24 The bill prohibits a governmental agency from using an
25 unmanned aerial vehicle to capture an image or to receive or
26 disclose an image acquired through the use of an unmanned
27 aerial vehicle unless used under the following circumstances:
28 the use is in connection with a search warrant, the use is
29 related to the search for a criminal suspect, to provide
30 support to another tactical operation, or for crowd monitoring,
31 the use is based upon a reasonable belief that an emergency
32 exists that threatens the life or safety of a person, or the
33 use is on public property.

34 If a governmental agency uses an unmanned aerial vehicle
35 in an emergency, the bill requires the supervisory official

1 of such an agency to file a sworn statement with the court
2 detailing the grounds for using the unmanned aerial vehicle in
3 the emergency within 48 hours of its use. The bill specifies
4 that if the supervisory official fails to file the sworn
5 statement, the supervisory official is barred from future
6 involvement with the agency's use of unmanned aerial vehicles,
7 and the agency must seek approval from the applicable governing
8 body for any future use of an unmanned aerial vehicle.

9 The bill prohibits a governmental agency from archiving data
10 captured or received through the use of an unmanned aerial
11 vehicle unless the data is captured or received in connection
12 with a search warrant, or during an emergency, but only for
13 48 hours except upon entry of a court order requiring the
14 archiving of the data for more than 48 hours.

15 The bill requires that an unmanned aerial vehicle purchased
16 by a state agency be approved by the general assembly prior to
17 such an acquisition. The acquisition of an unmanned aerial
18 vehicle at the county, city, or local government level shall
19 be approved by the board of supervisors, city council, or
20 other supervisory legislative body that oversees the political
21 subdivision.

22 The bill prohibits a person from using an unmanned aerial
23 vehicle to capture an image of an individual or private
24 property with the intent to conduct surveillance, or to stalk,
25 follow, or intimidate another person. The bill allows a person
26 using an unmanned aerial vehicle to capture an image of an
27 individual if the individual is on public property or the
28 person has received permission from the individual to capture
29 or receive such an image.

30 The bill prohibits a person from using an unmanned aerial
31 vehicle equipped with an instrument that is capable of emitting
32 a peculiar sound or excessive noise, spraying a liquid or gas,
33 or dropping an object. The bill allows an unmanned aerial
34 vehicle to be equipped with such instruments if the person uses
35 the unmanned aerial vehicle over the real property owned by the

1 person or the person has permission from the owner or tenant of
2 the real property to use an unmanned aerial vehicle equipped
3 with such instruments.

4 The bill allows an accredited postsecondary institution,
5 other than a special security officer or security agency
6 employed by or otherwise connected with the institution, to use
7 an unmanned aerial vehicle to capture or receive an image for
8 research purposes, or to retain or distribute such an image.

9 The bill prohibits an unmanned aerial vehicle from being
10 equipped with a dangerous weapon. The bill defines "dangerous
11 weapon" to mean the same as defined in Code section 702.7,
12 but also includes an instrument or device designed to damage
13 property.

14 The bill does not apply to an operation, exercise, or mission
15 of any branch of the United States military, or the Iowa
16 national guard.

17 Under the bill, each state agency and each political
18 subdivision, if required to do so by the supervising
19 legislative body of the political subdivision, that uses an
20 unmanned aerial vehicle shall provide information related to
21 the use of the unmanned aerial vehicle to the department of
22 public safety by June 30, 2018, and every June 30 thereafter.
23 The bill also requires the department of public safety to
24 compile such information and file a report to the standing
25 committees on government oversight by January 15, 2019, and
26 every January 15 thereafter.

27 A person who violates the bill commits an aggravated
28 misdemeanor. If the violation causes serious injury the person
29 commits a class "D" felony, and if the violation causes death
30 the person commits a class "C" felony.

31 An aggravated misdemeanor is punishable by confinement for
32 no more than two years and a fine of at least \$625 but not more
33 than \$6,250. A class "D" felony is punishable by confinement
34 for no more than five years and a fine of at least \$750 but
35 not more than \$7,500. A class "C" felony is punishable by

1 confinement for no more than 10 years and a fine of at least
2 \$1,000 but not more than \$10,000.

3 In addition, the bill specifies that a "course of conduct"
4 without a legitimate purpose includes the use of an unmanned
5 aerial vehicle for purposes of proving the criminal offense of
6 stalking.

7 The bill also specifies that a person who knowingly assists
8 in providing an unmanned aerial vehicle to a person who commits
9 or attempts to commit terrorism is guilty of soliciting or
10 providing material support or resources for terrorism in
11 violation of Code section 708A.4.

12 The bill further provides, for purposes of violations
13 under Code chapter 717A (offenses relating to agricultural
14 production), a person "controls" or "enters" an animal facility
15 or a crop operation property if the actions of the person
16 include the use of an unmanned aerial vehicle.