

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

As Engrossed: H2/5/25

A Bill

HOUSE BILL 1148

5 By: Representative Vaught
6
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS PRIVACY ACT; TO ADDRESS
10 CERTAIN IMAGES CAPTURED BY UNMANNED AIRCRAFT SYSTEMS;
11 AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO CREATE THE ARKANSAS PRIVACY ACT; AND
16 TO ADDRESS CERTAIN IMAGES CAPTURED BY
17 UNMANNED AIRCRAFT SYSTEMS.
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. DO NOT CODIFY. Title.

22 This act shall be known and may be cited as the "Arkansas Privacy Act".
23

24 SECTION 2. Arkansas Code § 5-60-103 is amended to read as follows:

25 5-60-103. Unlawful use of an unmanned aircraft system related to
26 infrastructure – Unlawful use of an unmanned aircraft system related to
27 images.

28 (a) As used in this section:

29 (1) "Critical infrastructure" means:

- 30 (A) An electrical power generation or delivery system;
- 31 (B) A petroleum refinery;
- 32 (C) A chemical or rubber manufacturing facility;
- 33 (D) A petroleum or chemical storage facility;
- 34 (E) A railroad operating facility;
- 35 (F) A communication tower or facility;
- 36 (G) A food processing or manufacturing facility; or



- 1 (H) A correctional or detention facility; ~~and~~
2 (2)~~(A)~~ "Image" means a capturing of sound waves, thermal,
3 infrared, ultraviolet, or visible light, or other electromagnetic waves,
4 odor, or other conditions existing on or about real property or an individual
5 located on the real property; and
- 6 (3)(A) "Unmanned aircraft system" means an unmanned, powered
7 aircraft that:
- 8 (i) Does not carry a human operator;
9 (ii) Can be autonomous or remotely piloted or
10 operated; and
11 (iii) Can be expendable or recoverable.
- 12 (B) "Unmanned aircraft system" does not include:
13 (i) A satellite orbiting the earth;
14 (ii) An unmanned aircraft system used by the United
15 States Government or a person who is acting pursuant to contract with the
16 United States Government to conduct surveillance of specific critical
17 infrastructure;
18 (iii) An unmanned aircraft system used by the state
19 after consultation with the Governor or a person who is acting under contract
20 with the state to conduct surveillance of specific critical infrastructure;
21 (iv) An unmanned aircraft system used under a
22 certificate of authorization issued by the Federal Aviation Administration;
23 or
24 (v) An unmanned aircraft used by a law enforcement
25 agency, emergency medical service agency, hazardous materials response team,
26 disaster management agency, or other emergency management agency for the
27 purpose of incident command, area reconnaissance, personnel and equipment
28 deployment monitoring, training, or a related purpose.
- 29 (b) A person commits the offense of unlawful use of an unmanned
30 aircraft system related to critical infrastructure if he or she knowingly
31 uses an unmanned aircraft system to conduct surveillance of, gather evidence
32 or collect information about, or photographically or electronically record
33 critical infrastructure without the prior written consent of the owner of the
34 critical infrastructure.
- 35 (c) ~~This Subsection (b) of this~~ section does not prohibit:
36 (1)(A) A person from using an unmanned aircraft system to

1 conduct surveillance of, gather evidence or collect information about, or
2 photographically or electronically record his or her own property that is:

- 3 (i) Located on his or her own immovable property; or
4 (ii) Located on immovable property owned by another
5 person under a valid lease, servitude, right-of-way, right of use, permit,
6 license, or other right.

7 (B) A third person retained by the owner of the property
8 described in subdivision (c)(1)(A) of this section to conduct activities
9 described in subdivision (c)(1)(A) of this section is not prohibited under
10 this section from using an unmanned aircraft system to conduct the activities
11 described in this subdivision (c)(1); ~~or~~

12 (2) An insurance company or a person acting on behalf of an
13 insurance company from using an unmanned aircraft system for purposes of
14 *underwriting an insurance risk or investigating damage to insured property;*
15 *or*

16 (3) The Arkansas Department of Transportation, the State Highway
17 Commission, or a contractor, consultant, employee, or state entity that is a
18 partner of the department or commission from using an unmanned aircraft
19 system to perform work authorized by the department or commission.

20 (d) Unlawful use of an unmanned aircraft system related to critical
21 infrastructure is:

- 22 (1) A Class B misdemeanor; or
23 (2) A Class A misdemeanor for a second or subsequent offense.

24 (e)(1) A person commits the offense of unlawful use of an unmanned
25 aircraft system related to images if the person purposely uses an unmanned
26 aircraft system to capture an image of an individual or private property with
27 the purpose to conduct surveillance on the individual or private property
28 captured in the image.

29 (2) It is a defense to prosecution under subdivision (e)(1) of
30 this section that the person:

31 (A) Destroyed the image:

32 (i) As soon as the person had knowledge that the
33 image was captured in violation of this section; and

34 (ii) Without disclosing, displaying, or distributing
35 the image to another person; or

36 (B) Captured the image lawfully as authorized under § 27-

1 118-101.

2 (f) Unlawful use of an unmanned aircraft system related to images is a
3 Class C misdemeanor.

4
5 SECTION 3. Arkansas Code Title 5, Chapter 60, Subchapter 1, is amended
6 to add an additional section to read as follows:

7 5-60-126. Unlawful possession, disclosure, display, distribution, or
8 use of an image captured by an unmanned aircraft system.

9 (a) A person commits the offense of unlawful possession, disclosure,
10 display, distribution, or use of an image captured by an unmanned aircraft
11 system if the person:

12 (1) Captures an image in violation of § 5-60-103; and

13 (2) Possesses, discloses, displays, distributes, or otherwise
14 uses the image captured in violation of § 5-60-103.

15 (b) Unlawful possession, disclosure, display, distribution, or use of
16 an image captured by an unmanned aircraft system is a:

17 (1) Class C misdemeanor if the person only possessed an image in
18 violation of § 5-60-103; or

19 (2) Class B misdemeanor if otherwise committed.

20 (c) Each image a person possesses, discloses, displays, distributes,
21 or otherwise uses in violation of this section is a separate offense.

22 (d) It is a defense to prosecution under this section that the person:

23 (1) Destroyed the image as soon as the person had knowledge that
24 the image was captured in violation of § 5-60-103 for a charge related to
25 possession;

26 (2) Stopped disclosing, displaying, distributing, or otherwise
27 using the image as soon as the person had knowledge that the image was
28 captured in violation of § 5-60-103 for a charge related to disclosure,
29 display, distribution, or other use of an image; or

30 (3) Captured the image lawfully as authorized under § 27-118-
31 101.

32
33 SECTION 4. Arkansas Code Title 12, Chapter 6, Subchapter 7, is amended
34 to add an additional section to read as follows:

35 12-6-703. Rules on use of unmanned aircraft system by law enforcement.

36 (a) The Department of Public Safety shall adopt rules for the use of

1 an unmanned aircraft system by a law enforcement agency in this state.

2 (b) The rules adopted under subsection (a) of this section shall not
3 apply to the Arkansas Highway Police Division of the Arkansas Department of
4 Transportation.

5
6 SECTION 5. Arkansas Code Title 16, Chapter 40, Subchapter 1, is
7 amended to add an additional section to read as follows:

8 16-40-108. Illegally or incidentally captured images not subject to
9 disclosure – Definitions.

10 (a) As used in this section:

11 (1) "Image" means the same as defined in § 5-60-103; and

12 (2) "Unmanned aircraft system" means the same as defined in § 5-
13 60-103.

14 (b) Except as otherwise provided by subsection (c) of this section, an
15 image captured in violation of § 5-60-103 or an image captured by an unmanned
16 aircraft system that was incidental to the lawful capturing of an image:

17 (1) May not be used as evidence in any criminal proceeding,
18 juvenile proceeding, civil action, or administrative proceeding;

19 (2) Is not subject to disclosure, inspection, or copying under
20 the Freedom of Information Act of 1967, § 25-19-101 et seq.; and

21 (3) Is not subject to discovery, subpoena, or other means of
22 legal compulsion for its release.

23 (c) An image described by subsection (b) of this section may be
24 disclosed and used as evidence to prove a violation of § 5-60-103 and is
25 subject to discovery, subpoena, or other means of legal compulsion for the
26 purpose of proving a violation of § 5-60-103.

27
28 SECTION 6. Arkansas Code Title 16, Chapter 118, Subchapter 1, is
29 amended to add an additional section to read as follows:

30 16-118-119. Civil action for damages caused by violation of §§ 5-60-
31 103 and 5-60-126 – Definition.

32 (a) As used in this section, "malice" means a specific intent by a
33 person to cause substantial injury or harm to an owner or tenant of private
34 real property.

35 (b) An owner or tenant of private real property may bring an action
36 against a person who, in violation of § 5-60-103, captured an image of the

1 private real property or the owner or tenant of the private real property
2 while on the private real property to:

3 (1) Enjoin a violation or imminent violation of § 5-60-103 or §
4 5-60-126;

5 (2) Recover a civil damage of:

6 (A) Five thousand dollars (\$5,000) for all images captured
7 in a single episode in violation of § 5-60-103; or

8 (B) Ten thousand dollars (\$10,000) for disclosure,
9 display, distribution, or other use of an image captured in a single episode
10 in violation of § 5-60-126; or

11 (3) Recover actual damages if the person who captured the image
12 in violation of § 5-60-103 discloses, displays, or distributes the image with
13 malice.

14 (c) For purposes of recovering the civil damages or actual damages
15 under subsection (b) of this section:

16 (1) All owners of a parcel of real property are considered to be
17 a single owner; and

18 (2) All tenants of a parcel of real property are considered to
19 be a single tenant.

20 (d) In addition to the civil damages and actual damages authorized
21 under this section, the court shall award court costs and reasonable
22 attorney's fees to the prevailing party in an action under this section.

23 (e) An action brought under this section shall be commenced within two
24 (2) years from the date the image was:

25 (1) Captured in violation of § 5-60-103; or

26 (2) Initially disclosed, displayed, distributed, or otherwise
27 used in violation of § 5-60-126.

28
29 SECTION 7. Arkansas Code Title 27, Subtitle 8, is amended to add an
30 additional chapter to read as follows:

31 CHAPTER 118

32 UNMANNED AIRCRAFT SYSTEMS

33
34 27-118-101. Use of unmanned aircraft system to capture image.

35 (a) As used in this section, "unmanned aircraft system" means the same
36 as defined in § 5-60-103.

1 (b) It is lawful to capture an image using an unmanned aircraft system
2 in this state:

3 (1) For purposes of professional or scholarly research and
4 development by a person acting on behalf of an institution of higher
5 education, including without limitation a person who is:

6 (A) A professor, an employee, or a student of the
7 institution of higher education; or

8 (B) Under contract with or otherwise acting under the
9 direction of or on behalf of the institution of higher education;

10 (2) In airspace designated as a test site or range authorized by
11 the Federal Aviation Administration for the purpose of integrating unmanned
12 aircraft systems into the national airspace;

13 (3) As part of an operation, exercise, or mission of the United
14 States Armed Forces;

15 (4) If the image is captured by a satellite for the purposes of
16 mapping;

17 (5) If the image is captured by or for an electric utility or
18 natural gas utility:

19 (A) For operations and maintenance of utility facilities
20 for the purpose of maintaining utility system reliability and integrity;

21 (B) For inspecting utility facilities to determine repair,
22 maintenance, or replacement needs during and after construction of the
23 facilities;

24 (C) For assessing vegetation growth for the purpose of
25 maintaining clearances on utility easements; and

26 (D) For utility facility routing and siting for the
27 purpose of providing utility service;

28 (6) With the consent of the individual who owns or lawfully
29 occupies the real property captured in the image;

30 (7) Pursuant to a valid search warrant executed by the
31 following:

32 (A) The Arkansas State Game and Fish Commission;

33 (B) A Division of Arkansas State Police officer;

34 (C) A sheriff;

35 (D) The Arkansas Highway Police Division of the Arkansas
36 Department of Transportation; or

1 (E) A city or county law enforcement officer;

2 (8) If the image is captured by a law enforcement agency or a
3 person who is under contract with or otherwise acting under the direction of
4 or on behalf of a law enforcement agency;

5 (A) In immediate pursuit of a person that law enforcement
6 officers have reasonable suspicion or probable cause to suspect has committed
7 an offense, not including misdemeanors or offenses punishable by a fine only;

8 (B) For the purpose of documenting a crime scene where an
9 offense, not including misdemeanors or offenses punishable by a fine only,
10 has been committed;

11 (C) For the purpose of investigating the scene of a:

12 (i) Human fatality;

13 (ii) Motor vehicle accident causing death or serious
14 bodily injury to a person; or

15 (iii) Motor vehicle accident on a state highway or
16 federal interstate or highway;

17 (D) In connection with the search for a missing person;

18 (E) For the purpose of conducting a high-risk tactical
19 operation that poses a threat to human life; or

20 (F) Of private property that is generally open to the
21 public where the property owner consents to law enforcement public safety
22 activities;

23 (9) If the image is captured by a state or local law enforcement
24 agency, or a person who is under contract with or otherwise acting under the
25 direction of or on behalf of a state or local law enforcement agency for the
26 purpose of:

27 (A) Surveying the scene of a catastrophe or other damage
28 to determine whether a state of emergency should be declared;

29 (B) Preserving public safety, protecting property, or
30 surveying damage or contamination during a lawfully declared state of
31 emergency; or

32 (C) Conducting routine air quality sampling and
33 monitoring, as provided by state or local law;

34 (10) At the scene of a spill, or a suspected spill, of hazardous
35 materials;

36 (11) For the purpose of fire suppression;

