



House of Representatives

File No. 770

General Assembly

February Session, 2016

(Reprint of File No. 337)

Substitute House Bill No. 5274
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 30, 2016

AN ACT CONCERNING THE USE OF DRONES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective August 1, 2016*) (a) For the purposes of
2 this section:

3 (1) "Law enforcement agency" means the Division of State Police
4 within the Department of Emergency Services and Public Protection,
5 the Office of State Capitol Police, the special police forces established
6 pursuant to section 10a-156b of the general statutes, or any municipal
7 police department;

8 (2) "Law enforcement officer" means any officer, employee or agent
9 of a law enforcement agency, or a special policeman appointed under
10 section 29-18 of the general statutes; and

11 (3) "Unmanned aerial vehicle" means any contrivance used or
12 designed for navigation of or flight in air that is power-driven and
13 operated without the possibility of direct human intervention from
14 within or on the contrivance.

15 (b) Except as otherwise provided by law, no person shall operate an
16 unmanned aerial vehicle that is equipped with tear gas or any like or
17 similar deleterious agent, a deadly weapon, as defined in section 53a-3
18 of the general statutes, or an explosive or incendiary device, as defined
19 in section 53-206b of the general statutes.

20 (c) The provisions of subsection (b) of this section shall not apply to
21 a law enforcement officer who operates an unmanned aerial vehicle
22 that is equipped with explosive detection, detonation or disposal
23 equipment, provided such officer is authorized by the federal or state
24 government to detect, detonate and dispose of explosives and is
25 engaged in such detection, detonation or disposal.

26 (d) Any person who violates this section shall be guilty of a class C
27 felony.

28 Sec. 2. Subdivision (8) of subsection (a) of section 54-280 of the
29 general statutes is repealed and the following is substituted in lieu
30 thereof (*Effective August 1, 2016*):

31 (8) "Offense committed with a deadly weapon" or "offense" means:
32 (A) A violation of subsection (c) of section 2-1e, subsection (e) of
33 section 29-28, subsections (a) to (e), inclusive, or (i) of section 29-33,
34 section 29-34, subsection (a) of section 29-35, section 29-36, 29-36k, 29-
35 37a or 29-37e, subsection (c) of section 29-37g, section 29-37j, subsection
36 (b), (c) or (g) of section 53-202, section 53-202b, 53-202c, 53-202j, 53-
37 202k, 53-202l, 53-202aa or 53-206b, subsection (b) of section 53a-8,
38 section 53a-55a, 53a-56a, 53a-60a, 53a-60c, 53a-72b, 53a-92a, 53a-94a,
39 53a-102a, 53a-103a, 53a-211, 53a-212, 53a-216, 53a-217, 53a-217a, 53a-
40 217b, [or] 53a-217c or section 1 of this act, or a second or subsequent
41 violation of section 53-202g; or (B) a violation of any section of the
42 general statutes which constitutes a felony, as defined in section 53a-
43 25, provided the court makes a finding that, at the time of the offense,
44 the offender used a deadly weapon, or was armed with and threatened
45 the use of or displayed or represented by words or conduct that the
46 offender possessed a deadly weapon;

47 Sec. 3. Subsection (a) of section 53a-189a of the 2016 supplement to
48 the general statutes is repealed and the following is substituted in lieu
49 thereof (*Effective October 1, 2016*):

50 (a) A person is guilty of voyeurism when, (1) with malice, such
51 person knowingly photographs, films, videotapes or otherwise records
52 the image of another person (A) without the knowledge and consent of
53 such other person, (B) while such other person is not in plain view, and
54 (C) under circumstances where such other person has a reasonable
55 expectation of privacy, (2) with intent to arouse or satisfy the sexual
56 desire of such person or any other person, such person knowingly
57 photographs, films, videotapes or otherwise records the image of
58 another person (A) without the knowledge and consent of such other
59 person, (B) while such other person is not in plain view, and (C) under
60 circumstances where such other person has a reasonable expectation of
61 privacy, (3) with the intent to arouse or satisfy the sexual desire of such
62 person, commits simple trespass, as provided in section 53a-110a, and
63 observes, in other than a casual or cursory manner, another person (A)
64 without the knowledge or consent of such other person, (B) while such
65 other person is inside a dwelling, as defined in section 53a-100, and not
66 in plain view, and (C) under circumstances where such other person
67 has a reasonable expectation of privacy, or (4) with intent to arouse or
68 satisfy the sexual desire of such person or any other person, such
69 person knowingly photographs, films, videotapes or otherwise records
70 the genitals, pubic area or buttocks of another person or the
71 undergarments or stockings that clothe the genitals, pubic area or
72 buttocks of another person (A) without the knowledge and consent of
73 such other person, and (B) while such genitals, pubic area, buttocks,
74 undergarments or stockings are not in plain view. For the purposes of
75 this subsection, "not in plain view" includes a view not otherwise
76 obtainable that is made possible through the use of an unmanned
77 aerial vehicle, and "unmanned aerial vehicle" has the same meaning as
78 provided in section 1 of this act.

79 Sec. 4. (NEW) (*Effective October 1, 2016*) (a) For the purposes of this
80 section, "unmanned aerial vehicle" means any contrivance used or

81 designed for navigation of or flight in air that is power-driven and
82 operated without the possibility of direct human intervention from
83 within or on the contrivance.

84 (b) Except as otherwise provided by law, no person shall knowingly
85 cause an unmanned aerial vehicle to land upon or take off from the
86 grounds of a correctional institution.

87 (c) Any person who violates this section shall be guilty of a class E
88 felony.

89 Sec. 5. (NEW) (*Effective July 1, 2018*) (a) For the purposes of this
90 section:

91 (1) "Law enforcement agency" means the Division of State Police
92 within the Department of Emergency Services and Public Protection,
93 the Office of State Capitol Police, the special police forces established
94 pursuant to section 10a-156b of the general statutes, or any municipal
95 police department;

96 (2) "Law enforcement officer" means any officer, employee or agent
97 of a law enforcement agency, or a special policeman appointed under
98 section 29-18 of the general statutes; and

99 (3) "Unmanned aerial vehicle" means any contrivance used or
100 designed for navigation of or flight in air that is power-driven and
101 operated without the possibility of direct human intervention from
102 within or on the contrivance.

103 (b) A law enforcement officer may operate an unmanned aerial
104 vehicle provided:

105 (1) A judge of the Superior Court or judge trial referee has issued a
106 warrant in accordance with section 54-33a of the general statutes
107 authorizing the use of an unmanned aerial vehicle;

108 (2) The individual who will be the subject of the information
109 collected by the operation of an unmanned aerial vehicle has given

110 advance written consent to such operation;

111 (3) The owner of the property that will be the subject of the
112 information collected by the operation of an unmanned aerial vehicle
113 has given advance written consent to such operation;

114 (4) The law enforcement officer has probable cause to believe that a
115 criminal offense has been, is being or will be committed and exigent
116 circumstances exist that make it unreasonable for the law enforcement
117 officer to obtain a warrant authorizing the use of an unmanned aerial
118 vehicle;

119 (5) Such operation is pursuant to training activities conducted by
120 the law enforcement agency while on land owned or leased by the
121 federal or state government and does not occur over an area that is
122 substantially populated; or

123 (6) Such operation is used to reconstruct or document a specific
124 crime or accident scene.

125 (c) An individual or a privately owned property shall be considered
126 to be the subject of information collected by the operation of an
127 unmanned aerial vehicle if the information allows the identity of the
128 person or the privately owned property to be ascertained or if the law
129 enforcement officer operating the unmanned aerial vehicle
130 acknowledges such individual or such property was the subject of the
131 information.

132 Sec. 6. (*Effective from passage*) Not later than January 1, 2018, the
133 Commissioner of Emergency Services and Public Protection, the Police
134 Officer Standards and Training Council and the Chief State's Attorney
135 shall submit a report, in accordance with the provisions of section 11-
136 4a of the general statutes, to the joint standing committee of the
137 General Assembly having cognizance of matters relating to public
138 safety and security. Such report shall include their recommendations
139 for administrative policies and legislation necessary to establish
140 requirements for the retention, modification or destruction of

141 information collected by a law enforcement officer by the operation of
142 an unmanned aerial vehicle pursuant to (1) a warrant, issued in
143 accordance with section 54-33a of the general statutes, (2) the advance
144 written consent of the individual who will be the subject of the
145 information collected by such operation, (3) the advance written
146 consent of the owner of the property that will be the subject of the
147 information collected by such operation, (4) a determination that
148 probable cause that a criminal offense has been, is being or will be
149 committed and exigent circumstances exist, (5) training activities, and
150 (6) the reconstruction or documentation of a specific crime or accident
151 scene.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>August 1, 2016</i>	New section
Sec. 2	<i>August 1, 2016</i>	54-280(a)(8)
Sec. 3	<i>October 1, 2016</i>	53a-189a(a)
Sec. 4	<i>October 1, 2016</i>	New section
Sec. 5	<i>July 1, 2018</i>	New section
Sec. 6	<i>from passage</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Correction, Dept.; Judicial Dpt (Probation)	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill creates a new class C felony for the use of weaponized unmanned aerial vehicles, and a new class E felony for launching or landing a drone from a correctional facility, and expands the crime of voyeurism to include provisions related to the use of unmanned aerial vehicles. There are currently three offenders incarcerated for violations of statutes related to dropping weapons near correctional facilities and voyeurism.

To the extent that offenders are prosecuted for new or expanded offenses under the bill, potential costs for incarceration or probation supervision in the community, or judicial revenue would result. On average, it costs the state \$7,260 (including benefits) to supervise an inmate in the community as opposed to \$61,320 (including benefits) to incarcerate an offender.

The bill authorizes law enforcement officers to use drones in certain circumstances. The Police Officer Training and Standards Council and the Chief State's Attorney shall develop a report regarding guidelines for law enforcement drone operations and records retention by January 1, 2018. These provisions will not result in a fiscal impact.

House Amendment "A" struck the underlying bill and its associated fiscal impact and resulted in the impact described above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5274 (as amended by House "A")******AN ACT CONCERNING THE USE OF DRONES.*****SUMMARY:**

This bill makes it a class C felony, punishable by imprisonment for up to 10 years, a fine of up to \$10,000, or both, to operate unmanned aerial vehicles (commonly called drones) that are weaponized, unless otherwise authorized by law. It authorizes certain law enforcement officers to operate weaponized drones in limited circumstances (e.g., during bomb squad operations), and it restricts when they may use non-weaponized drones.

The bill makes it a class E felony, punishable by imprisonment for up to three years, a fine of up to \$3,500, or both for anyone to knowingly cause a drone to land or take off from a correctional facility's grounds.

The bill specifies that, for purposes of voyeurism crimes (see BACKGROUND), a victim is "not in plain view" when the view is not otherwise obtainable and it is made possible by operating a drone.

By January 1, 2018, the bill requires the Department of Emergency Services and Public Protection (DESPP), Police Officer Standards and Training Council (POST), and chief state's attorney to submit a report to the Public Safety and Security Committee with recommendations for administrative policies and legislation necessary to establish requirements for the retention, modification, or destruction of information collected by law enforcement use of drones as allowed by the bill.

*House Amendment "A" eliminates the original bill's (File 337)

provisions (1) imposing retention and destruction information on law enforcement and instead requires a study of such requirements, (2) prohibiting municipalities from enacting ordinances that regulate drones, (3) requiring law enforcement agencies to post certain drone information online, (4) allowing state agencies to authorize drone use, and (5) requiring POST to develop a model policy. It also (1) decreases the penalty for the correction facilities provision and punishes landing and taking off rather than passing items, (2) alters circumstances when law enforcement may use drones, (3) extends restrictions on drone use to Capitol Police and special police and the weaponized provision to the Capitol Police, (4) eliminates provisions on using other technology for voyeurism or weaponized drones, and (5) makes other minor changes.

EFFECTIVE DATE: Upon passage for the report; August 1, 2016 for the weaponized drone provisions; October 1, 2016 for the voyeurism and correctional facilities provisions; and July 1, 2018 for the restrictions on law enforcement use of non-weaponized drones.

§§ 1 & 2 — WEAPONIZED DRONES

The bill defines an “unmanned aerial vehicle” as any power-driven contrivance used or designed for navigation or flight and operated remotely from the outside (“drones”).

It creates a new crime, making it a class C felony, unless otherwise provided by law, to operate a drone equipped with tear gas or a similar deleterious agent, a deadly weapon, explosives, or an incendiary device. (Drones so equipped are commonly described as weaponized or armed.) People convicted of this crime must register with the deadly weapon offender registry (see BACKGROUND). Failure to register is a class D felony punishable by imprisonment for up to five years, a fine of up to \$5,000, or both.

The bill allows designated law enforcement officers to use drones equipped with explosive detection, detonation, or disposal equipment when authorized by the state or federal government and engaged in

detecting, detonating, or disposing of explosives. This provision applies to (1) DESPP-appointed special police officers for state property and (2) officers, employees, or agents of the State Police; municipal police departments; special campus police forces; and State Capitol Police.

§ 3 — VOYEURISM

By law, a person commits voyeurism if, under certain circumstances, he or she, with malice or intent to satisfy his or her sexual desire, knowingly photographs, films, videotapes, or otherwise records a person without his or her consent and while he or she is not in plain view (see BACKGROUND). The bill specifies that a victim, under this law, is “not in plain view” when the view is not otherwise obtainable and is made possible by using a drone.

§ 4 — CORRECTIONAL FACILITIES

Under existing law, it is a class D felony for anyone not authorized by law to pass certain prohibited items, including firearms, weapons, dangerous instruments, or explosives in a correctional or humane institution to an inmate he or she knows, whether the inmate is inside or outside the premises.

The bill makes it a class E felony for anyone to knowingly cause a drone to land or take off from the grounds of a correctional facility, except when otherwise provided by law.

§ 5 — DRONE USE BY LAW ENFORCEMENT OFFICERS

The bill restricts when law enforcement officers may operate drones. This provision applies to (1) DESPP-appointed special police officers for state property and (2) officers, employees, or agents of the State Police; municipal police departments; special campus police forces; and State Capitol Police.

They may do so only under the following circumstances:

1. a Superior Court judge or judge trial referee (judge over age 70 who serves with limited powers) issues a warrant authorizing

its use;

2. the person who, or the owner of property that, will be the subject of the information collected by the drone has given prior written consent (the subject being the person or property that can be identified in information collected or that the officer acknowledges as the subject);
3. the law enforcement officer has probable cause to believe that a crime was, is being, or will be committed and exigent circumstances make it unreasonable to obtain a warrant (case law recognizes an exception to the usual requirement to obtain a warrant to conduct a search when exigent circumstances exist, such as an emergency with an imminent threat to someone's life);
4. the operation is for training activities conducted by the agency on land owned or leased by the state or federal government and does not occur over an area that is substantially populated; or
5. the operation is for reconstructing or documenting a specific crime or accident scene.

BACKGROUND

Deadly Weapon and Deadly Weapon Offender Registry

By law, a "deadly weapon" is a weapon, whether loaded or unloaded, from which a shot may be discharged, or a switchblade knife, gravity knife, billy, blackjack, bludgeon, or metal knuckles.

By law, DESPP maintains a registry of people convicted, or found not guilty by reason of mental disease or defect, of an offense committed with a deadly weapon. A person must register if he or she (1) violated specified statutes or (2) committed any felony and the court finds that, at the time of the offense, the offender used a deadly weapon or was armed with and threatened to use, displayed, or represented by words or conduct that he or she possessed, a deadly weapon. Offenders must register for five years. The registry

information is not a public record and is disclosable only to certain law enforcement and other agencies.

Voyeurism

By law, a person commits the crime of voyeurism when (1) he or she knowingly photographs, films, videotapes, or records the victim's image; (2) he or she acts maliciously or intends to satisfy his or her or another's sexual desire; and (3) the victim is not in plain view, has a reasonable expectation of privacy under the circumstances, and does not know of, or consent to, the conduct.

PA 15-213 expanded the crime of voyeurism in two ways. First, it punishes someone who with intent to arouse or satisfy his or her sexual desire:

1. commits simple trespass (entering property knowing he or she is not entitled to do so without intent to harm property);
2. observes another person who is inside a dwelling and not in plain view under circumstances where there is a reasonable expectation of privacy; and
3. does not have the other person's knowledge or consent and the observation is not casual or cursory.

Second, it punishes someone who intending to arouse or satisfy his or her or someone else's sexual desire:

1. knowingly photographs films, videotapes, or otherwise records the victim's genitals, pubic area, buttocks, or undergarments or stockings used to clothe them, when they are not in plain view; and
2. records such an image without the victim's knowledge and consent.

By law, voyeurism is either a class D felony or a class C felony depending on the circumstances. A first offense is a class D felony but

it a class C felony if the (1) victim is under age 16 or (2) offender has a prior conviction of certain sexual crimes. Any subsequent voyeurism conviction is a class C felony. Additionally, people convicted of the type of voyeurism that involve satisfying a person's sexual desire must, in certain circumstances, register as sex offenders for 10 years or life, depending on his or her prior convictions. Failure to register is a class D felony.

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Substitute

Yea 19 Nay 6 (03/15/2016)

Judiciary Committee

Joint Favorable

Yea 39 Nay 1 (04/11/2016)

Planning and Development Committee

Joint Favorable

Yea 14 Nay 0 (04/22/2016)