



# Ohio Legislative Service Commission

## Bill Analysis

Aida S. Montano

### H.B. 228

131st General Assembly  
(As Introduced)

**Reps.** Cupp, Grossman, Hambley, Becker, Thompson, Ruhl, Schaffer, Conditt, Phillips, Blessing, Hackett, M. O'Brien, Amstutz, Buchy

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## BILL SUMMARY

- Establishes a new criminal offense of "engaging in criminal activity through use of a drone," by prohibiting any person from committing any of a list of specified offenses by using a drone or directing or supervising another person's use of a drone.
- Provides that the new offense is a strict liability offense, but the degree of culpability required to commit the underlying specified offense is the degree of culpability in the section specifying the offense.
- Specifies that the new offense is an unclassified felony, and requires the court to sentence the offender for the specified offense, to impose a mandatory fine, and to order the criminal forfeiture to the state of the drone that is used as an instrumentality in the commission of the offense.
- Provides that the new offense does not restrict a lawful investigative, law enforcement, protective, or intelligence gathering governmental employee or agent of Ohio, its political subdivision, or the federal government, if acting in an official capacity, from using a drone or directing or supervising another's use of a drone.

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## CONTENT AND OPERATION

### Offense of "engaging in criminal activity through use of a drone"

The bill prohibits any person from committing a specified offense by using a "drone" or by directing or supervising another person's use of a drone. A violation of the prohibition is the offense of "engaging in criminal activity through use of a drone."<sup>1</sup>

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<sup>1</sup> R.C. 2917.48(B)(1) and (C).

The bill defines a "drone" as a powered, aerial device to which all of the following apply: (1) it does not carry a human operator and is operated without the possibility of direct human intervention from within or on the device, (2) it uses aerodynamic forces to provide the device lift, (3) it can fly autonomously or be piloted remotely, and (4) it can be expendable or recoverable.<sup>2</sup>

The specified offenses that may be committed with a drone are: aggravated menacing, menacing by stalking, menacing, voyeurism, vandalism, criminal damaging or endangering, criminal mischief, endangering aircraft, endangering airport operations, interfering with the operation of an aircraft with a laser, vehicular vandalism, railroad vandalism, criminal trespass on a locomotive, engine, railroad car, or other railroad vehicle, interference with the operation of a train, criminal trespass on the land or premises of a railroad company, railroad grade crossing device vandalism, terrorism, aggravated burglary, burglary, trespass in a habitation when a person is present or likely to be present, breaking and entering, disorderly conduct, disturbing a lawful meeting, misconduct at an emergency, inducing panic, unlawful possession or use of a hoax weapon of mass destruction, obstructing official business, or aiding escape or resistance to lawful authority.<sup>3</sup>

### **Mental culpability**

The new offense is a strict liability offense for purposes of the law requiring a degree of mental culpability for new criminal offenses. However, the degree of culpability required to commit the underlying "specified offense" is the degree of culpability specified in the section establishing the offense.<sup>4</sup>

### **Penalty; forfeiture of drone**

The new offense is an unclassified felony. The court must sentence the offender for the underlying specified offense that is an element of the new offense and impose a mandatory fine from the range of fines for the degree of that specified offense.<sup>5</sup>

Additionally, the court must order the criminal forfeiture to the state in accordance with the Forfeiture Law of the drone used in the offense.<sup>6</sup> Under the bill, property subject to forfeiture includes an instrumentality that is used in or intended to

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<sup>2</sup> R.C. 2917.48(A)(1).

<sup>3</sup> R.C. 2917.48(A)(2).

<sup>4</sup> R.C. 2917.48(B)(2).

<sup>5</sup> R.C. 2917.48(C)(1) and (2).

<sup>6</sup> R.C. 2917.48(C)(3).

be used in the commission or facilitation of the offense of engaging in criminal activity through use of a drone when the use or intended use is sufficient to warrant forfeiture under the Forfeiture Law.<sup>7</sup> The bill states that a drone used in the commission or facilitation of the new offense always will be determined to have been used in a manner sufficient to warrant its forfeiture. The existing factors in determining whether an instrumentality is used or intended to be used in committing an offense do not apply to such drone.<sup>8</sup>

### Effects of new offense

The bill states that the prohibition under the new offense does not do either of the following:

- Limit or affect the application of any other prohibition in the Revised Code. Any act that is a violation of both the new prohibition and another provision of the Revised Code may be prosecuted under the bill, under the other Revised Code provision, or under both the bill and the other Revised Code provision.<sup>9</sup>
- Limit or restrict a lawfully authorized investigative, law enforcement, protective, or intelligence gathering employee or agent of the government of Ohio, a political subdivision of Ohio, or the federal government, when acting in an official capacity, from using a drone or directing or supervising another person's use of a drone.<sup>10</sup>

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## HISTORY

ACTION	DATE
Introduced	05-21-15

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<sup>7</sup> R.C. 2981.02(A)(3)(c).

<sup>8</sup> R.C. 2981.02(B).

<sup>9</sup> R.C. 2917.48(D).

<sup>10</sup> R.C. 2917.48(E).

