

Stricken language would be deleted from and underlined language would be added to present law.
Act 597 of the Regular Session

State of Arkansas As Engrossed: H2/5/25 H2/10/25 H2/17/25 H3/4/25 H3/11/25

95th General Assembly

A Bill

Regular Session, 2025

HOUSE BILL 1148

By: Representatives Vaught, Milligan

By: Senator B. Johnson

For An Act To Be Entitled

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

Subtitle

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

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

SECTION 1. DO NOT CODIFY. Title.

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

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

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

(a) As used in this section:

(1) "Critical infrastructure" means:

(A) An electrical power generation or delivery system;

(B) A petroleum refinery;

(C) A chemical or rubber manufacturing facility;

(D) A petroleum or chemical storage facility;

(E) A railroad operating facility;

(F) A communication tower or facility or a communications
or broadband wireline facility;



(G) A food processing or manufacturing facility; ~~or~~

(H) A correctional or detention facility; ~~and~~ or

(I) A natural gas distribution or transmission line, natural gas facility, or natural gas storage;

(2)~~(A)~~ "Image" means a capturing of sound waves, thermal, infrared, ultraviolet, or visible light, or other electromagnetic waves, odor, or other conditions existing on or about real property or an individual located on the real property; and

(3)(A) "Unmanned aircraft system" means an unmanned, powered aircraft that:

(i) Does not carry a human operator;

(ii) Can be autonomous or remotely piloted or operated; and

(iii) Can be expendable or recoverable.

(B) "Unmanned aircraft system" does not include:

(i) A satellite orbiting the earth;

(ii) An unmanned aircraft system used by the United States Government or a person who is acting pursuant to contract with the United States Government to conduct surveillance of specific critical infrastructure;

(iii) An unmanned aircraft system used by the state after consultation with the Governor or a person who is acting under contract with the state to conduct surveillance of specific critical infrastructure;

~~(iv) An unmanned aircraft system used under a certificate of authorization issued by the~~ operated by a person for a commercial purpose pursuant to and in compliance with Federal Aviation Administration regulations, authorizations, or exemptions; or

~~(v) An unmanned aircraft used by a law enforcement agency, emergency medical service agency, hazardous materials response team, disaster management agency, or other emergency management agency for the purpose of incident command, area reconnaissance, personnel and equipment deployment monitoring, training, or a related purpose.~~

(b) A person commits the offense of unlawful use of an unmanned aircraft system related to critical infrastructure if he or she knowingly uses an unmanned aircraft system to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record

critical infrastructure without the prior written consent of the owner of the critical infrastructure.

(c) ~~This Subsection (b) of this~~ section does not prohibit:

(1)(A) A person from using an unmanned aircraft system to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record his or her own property that is:

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

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

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

(3) A law enforcement officer performing his or her official duties; or

(4) The Arkansas Department of Transportation, the State Highway Commission, a city or county department of public works, or a contractor, consultant, employee, or state entity that is a partner of the department, commission, or a city or county department of public works from using an unmanned aircraft system to perform work authorized by the department, commission, or a city or county department of public works.

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

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

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

(2) It is a defense to prosecution under subdivision (e)(1) of

this section that the person:

(A) Destroyed the image:

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

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

(B) Captured the image lawfully as authorized under § 27-118-101; or

(C) Captured the image as a law enforcement officer performing his or her official duties.

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

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

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

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

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

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

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

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

(2) Class B misdemeanor if otherwise committed.

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

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

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

(2) Stopped disclosing, displaying, distributing, or otherwise using the image as soon as the person had knowledge that the image was

captured in violation of § 5-60-103 for a charge related to disclosure, display, distribution, or other use of an image; or

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

SECTION 4. Arkansas Code Title 16, Chapter 118, Subchapter 1, is amended to add an additional section to read as follows:

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

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

(b) An owner or tenant of private real property may bring an action against a person who, in violation of § 5-60-103, captured an image of the private real property or the owner or tenant of the private real property while on the private real property, with a reasonable expectation of privacy to:

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

(2) Recover a civil damage of:

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

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

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

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

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

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

(d) In addition to the civil damages and actual damages authorized under this section, the court shall award court costs and reasonable

attorney's fees to the prevailing party in an action under this section.

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

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

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

SECTION 5. Arkansas Code Title 27, Subtitle 8, is amended to add an additional chapter to read as follows:

CHAPTER 118

UNMANNED AIRCRAFT SYSTEMS

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

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

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

(1) For the purposes of professional research, scholarly research and development, educational, agricultural, or athletic purposes, gathering data for modeling, or the collection of data to further a body of knowledge by a person acting on behalf of an institution of higher education or the Arkansas State Game and Fish Commission, including without limitation a person who is:

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

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

(C) A biologist of the Arkansas State Game and Fish Commission;

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

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

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

(5) If the image is captured by or for an electric utility, natural gas utility, or water and wastewater utility:

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

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

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

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

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

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

(A) The Arkansas State Game and Fish Commission;

(B) A Division of Arkansas State Police officer;

(C) A sheriff;

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

(E) A city or county law enforcement officer;

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

(A) In immediate pursuit of a person that law enforcement officers have reasonable suspicion or probable cause to suspect has committed an offense;

(B) For the purpose of investigating a crime scene or documenting a crime scene where an offense has been committed;

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

(i) Human fatality;

(ii) Motor vehicle accident, boating accident, or hunting accident causing death or serious bodily injury to a person;

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

(iv) Boating accident on public waters of this

state;

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

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

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

(G) For the purpose of conducting a search and rescue operation;

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

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

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

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

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

(11) For the purpose of fire suppression;

(12) For the purpose of rescuing a person whose life or well-being is in imminent danger;

(13) If the image is captured by an Arkansas-licensed real estate broker in connection with the marketing, sale, or financing of real property, provided that no individual is identifiable in the image;

(14) From a height no more than eight feet (8') above ground level in a public place, if the image was captured without using any electronic, mechanical, or other means to amplify the image beyond normal human perception;

(15) Of public real property or property of a state-supported institute of higher education or a person on the public real property or property of a state-supported institute of higher education;

(16) If the image is captured:

(A) By the owner or operator of an oil, gas, water, or other pipeline for the purpose of inspecting, maintaining, or repairing pipelines or other related facilities; and

(B) Without the intent to conduct surveillance on an individual or real property;

(17) In connection with oil pipeline safety and rig protection;

(18) In connection with port authority surveillance and security;

(19) By an assessor with the consent of the owner of the property;

(20) By a surveyor within the Department of Transformation and Shared Services for mapping and land surveying tasks;

(21) If the image is captured by an employee, consultant, contractor, or other person acting on behalf of the Arkansas Department of Transportation, State Highway Commission, Arkansas Highway Police Division of the Arkansas Department of Transportation, or a city or county department of public works;

(22) If the image is captured by an employee of an insurance company or an affiliate of an insurance company in connection with the underwriting of an insurance policy, or the rating or adjusting of an insurance claim, regarding real property or a structure on real property;

(23) By an engineer or surveyor licensed in the State of Arkansas for the purpose of:

(A) Mapping and land surveying tasks;

(B) Collecting geographical information system data supporting public or private infrastructure;

(24) For the operation by or on behalf of an owner or operator of a critical infrastructure facility for the purpose of siting, deploying, inspecting, monitoring, operating, or maintaining the facility; or

(25) If the image is captured by the Arkansas State Game and Fish Commission while conducting fish, wildlife, or habitat surveys or if reasonable suspicion exists that a violation of an Arkansas State Game and Fish Commission regulation has occurred or is about to occur.

(c) This section does not apply to the manufacture, assembly, distribution, or sale of an unmanned aircraft.

/s/Vaught

APPROVED: 4/14/25