

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 398
Judiciary

(Delegate Grammer)

Public Safety - Persistent Aerial Surveillance

This bill, with specified exceptions, prohibits a unit or an agency of the State or a political subdivision of the State from conducting “persistent aerial surveillance” to gather evidence or other information in a criminal investigation.

Fiscal Summary

State Effect: Potential operational impact for some State law enforcement agencies, as discussed below. State finances are not anticipated to be materially affected.

Local Effect: Potential operational impact for some local law enforcement agencies. Local finances are not anticipated to be affected.

Small Business Effect: None.

Analysis

Bill Summary: A unit or an agency of the State or political subdivision of the State *may* conduct persistent aerial surveillance:

- in accordance with a valid search warrant issued by a judge;
- on a location for the purpose of executing an arrest warrant;
- in fresh pursuit of a suspect, as specified;
- to assist in an active search and rescue operation;
- to locate an escaped prisoner;

- if a law enforcement officer reasonably believes that the use of aircraft is necessary to prevent imminent serious bodily harm to an individual; or
- if the U.S. Secretary of Homeland Security determines that credible intelligence indicates that there is a high risk of a terrorist attack by a specific individual or organization and that persistent aerial surveillance is necessary to counter such a risk.

“Persistent aerial surveillance” means the use of aircraft to record video or a concurrent series of images or pictures that when viewed in aggregate depict a person’s actions over time.

Current Law: Maryland currently has no laws limiting the use of aerial surveillance. The Fourth Amendment to the U.S. Constitution protects individuals from unreasonable searches and seizures by the government and has been interpreted to create a right of privacy. The reasonableness of a governmental search often depends on the reasonableness of the expectation of privacy on the part of the person subject to the search, the location of the search, and the breadth of information gathered.

Generally, U.S. Supreme Court decisions have held a warrantless search of an individual’s home to be unreasonable, with certain clearly delineated exceptions. However, courts have also held that the Fourth Amendment does not protect individuals from searches that take place in “open fields” because it is unreasonable for a person to have an expectation of privacy over activities that take place in such areas. Technological advances have made traditional legal standards that were often location-based difficult to apply, and courts and lawmakers have increasingly had to grapple with the threshold question of whether information gathered through emerging technology constitutes a search at all.

State/Local Fiscal Effect: While not expected to result in a material fiscal impact, the bill results in potential operational impacts for several State agencies with law enforcement units. For example, the Alcohol, Tobacco, and Cannabis Commission advises that the bill has an operational impact on its ability to arrange for the use of drones to aid in investigations related to the transportation and sale of alcohol and tobacco. The Department of Natural Resources reports that that bill requires changes to administrative procedures.

Local law enforcement agencies may be similarly affected. For example, Calvert County advises that the need to obtain a warrant for the use of drones to aid in investigations results in an operational impact.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 682 of 2025; HB 303 of 2024; and HB 228 of 2023.

Designated Cross File: None.

Information Source(s): Baltimore City; Calvert, Howard, and Prince George's counties; City of Annapolis; Maryland Municipal League; Alcohol, Tobacco, and Cannabis Commission; Comptroller's Office; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland Department of Agriculture; Maryland Department of the Environment; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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