



PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 197 be amended to read as follows:

- 1 Page 35, between lines 32 and 33, begin a new paragraph and insert:
- 2 "SECTION 33. IC 35-31.5-2-24.7 IS ADDED TO THE INDIANA
- 3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 4 [EFFECTIVE UPON PASSAGE]: **Sec. 24.7. "Automatic license plate**
- 5 **readers", for purposes of IC 35-33-5, has the meaning set forth in**
- 6 **IC 35-33-5-0.5.**
- 7 SECTION 34. IC 35-31.5-2-27.7 IS ADDED TO THE INDIANA
- 8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 9 [EFFECTIVE UPON PASSAGE]: **Sec. 27.7. "Biometric surveillance**
- 10 **system", for purposes of IC 35-33-5, has the meaning set forth in**
- 11 **IC 35-33-5-0.5."**
- 12 Page 35, between lines 35 and 36, begin a new paragraph and insert:
- 13 "SECTION 36. IC 35-31.5-2-35.3 IS ADDED TO THE INDIANA
- 14 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 15 [EFFECTIVE UPON PASSAGE]: **Sec. 35.3. "Cell-site simulator",**
- 16 **for purposes of IC 35-33-5, has the meaning set forth in**
- 17 **IC 35-33-5-0.5.**
- 18 SECTION 37. IC 35-31.5-2-111.5, AS ADDED BY P.L.170-2014,
- 19 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 20 UPON PASSAGE]: Sec. 111.5. "Electronic storage", for purposes of
- 21 IC 35-33-5, has the meaning set forth in ~~IC 35-33-5-0.5(2)~~.

1 **IC 35-33-5-0.5.**

2 SECTION 38. IC 35-31.5-2-112.5, AS ADDED BY P.L.170-2014,
3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 112.5. "Electronic user data", for purposes of
5 IC 35-33-5, has the meaning set forth in ~~IC 35-33-5-0.5(3)~~.
6 **IC 35-33-5-0.5."**

7 Page 36, between lines 2 and 3, begin a new paragraph and insert:
8 "SECTION 40. IC 35-31.5-2-127.3 IS ADDED TO THE INDIANA
9 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
10 [EFFECTIVE UPON PASSAGE]: **Sec. 127.3. "Facial recognition",**
11 **for purposes of IC 35-33-5, has the meaning set forth in**
12 **IC 35-33-5-0.5."**

13 Page 36, between lines 14 and 15, begin a new paragraph and insert:
14 "SECTION 43. IC 35-31.5-2-175.5, AS ADDED BY P.L.170-2014,
15 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 UPON PASSAGE]: Sec. 175.5. "Intercept", for purposes of IC 35-33-5,
17 has the meaning set forth in ~~IC 35-33-5-0.5(5)~~. **IC 35-33-5-0.5."**

18 Page 36, between lines 25 and 26, begin a new paragraph and insert:
19 "SECTION 45. IC 35-31.5-2-185, AS AMENDED BY P.L.58-2020,
20 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 UPON PASSAGE]: Sec. 185. (a) "Law enforcement officer" means:

- 22 (1) a police officer (including a correctional police officer),
23 sheriff, constable, marshal, prosecuting attorney, special
24 prosecuting attorney, special deputy prosecuting attorney, the
25 securities commissioner, or the inspector general;
26 (2) a deputy of any of those persons;
27 (3) an investigator for a prosecuting attorney or for the inspector
28 general;
29 (4) a conservation officer;
30 (5) an enforcement officer of the alcohol and tobacco
31 commission;
32 (6) an enforcement officer of the securities division of the office
33 of the secretary of state; or
34 (7) a gaming agent employed under IC 4-33-4.5 or a gaming
35 control officer employed by the gaming control division under
36 IC 4-33-20.

37 (b) "Law enforcement officer", for purposes of IC 35-42-2-1,
38 includes an alcoholic beverage enforcement officer, as set forth in
39 IC 35-42-2-1.

40 (c) "Law enforcement officer", for purposes of **IC 35-33-5-9 and**
41 **IC 35-45-15**, includes a federal enforcement officer, as set forth in
42 IC 35-45-15-3.

43 (d) "Law enforcement officer", for purposes of IC 35-44.1-3-1 and
44 IC 35-44.1-3-2, includes a school resource officer (as defined in
45 IC 20-26-18.2-1) and a school corporation police officer appointed
46 under IC 20-26-16.

1 (e) "Law enforcement officer", for purposes of IC 35-40.5, has the
2 meaning set forth in IC 35-40.5-1-1.

3 SECTION 46. IC 35-31.5-2-273.8, AS ADDED BY P.L.170-2014,
4 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 UPON PASSAGE]: Sec. 273.8. "Remote computing service", for
6 purposes of IC 35-33-5, has the meaning set forth in ~~IC 35-33-5-0.5(6):~~
7 **IC 35-33-5-0.5."**

8 Page 36, between lines 32 and 33, begin a new paragraph and insert:
9 "SECTION 49. IC 35-31.5-2-337.5, AS ADDED BY P.L.170-2014,
10 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 UPON PASSAGE]: Sec. 337.5. "Tracking device", for purposes of
12 IC 35-33-5 and this chapter, means an electronic or mechanical device
13 that allows a person to remotely determine or track the position or
14 movement of another person or an object. The term includes the
15 following:

- 16 (1) A device that stores geographic data for subsequent access or
17 analysis.
- 18 (2) A device that allows real-time monitoring or movement.
- 19 ~~(3) An unmanned aerial vehicle.~~
- 20 ~~(4)~~ **(3)** A cellular telephone or other wireless or cellular
21 communications device."

22 Page 37, between lines 21 and 22, begin a new paragraph and insert:
23 "SECTION 53. IC 35-33-5-0.5, AS AMENDED BY P.L.107-2017,
24 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 UPON PASSAGE]: Sec. 0.5. The following definitions apply
26 throughout this chapter:

- 27 (1) **"Automatic license plate reader" means a high-speed,**
28 **computer-controlled camera system that:**
29 **(A) captures all license plate numbers that come into view**
30 **of the camera system; and**
31 **(B) uploads the data to a central server.**
- 32 (2) **"Biometric surveillance system" means any computer**
33 **software that performs facial recognition or other remote**
34 **biometric recognition in real time or on a recording or a**
35 **photograph.**
- 36 (3) **"Cell-site simulator" means a device, when operating in**
37 **active mode, that mimics a wireless carrier cell tower in order**
38 **to force all nearby mobile phones and other cellular data**
39 **devices to connect to the device.**
- 40 (4) "Electronic communication service" means a service that
41 provides users with the ability to send or receive wire or
42 electronic communications.
- 43 ~~(2)~~ **(5)** "Electronic storage" means any storage of electronic user
44 data on a computer, computer network, or computer system
45 regardless of whether the data is subject to recall, further
46 manipulation, deletion, or transmission. "Electronic storage"

1 includes any storage or electronic communication by an electronic
2 communication service or a remote computing service.

3 ~~(5)~~ **(6)** "Electronic user data" means any data or records that are
4 in the possession, care, custody, or control of a provider of an
5 electronic communication service, a remote computing service, or
6 any other service or program that stores, uses, collects, or
7 safeguards electronic user data.

8 **(7) "Facial recognition" means an automated or**
9 **semi-automated process that:**

10 **(A) assists in identifying an individual, capturing**
11 **information about an individual, or otherwise generating**
12 **or assisting in generating surveillance information about**
13 **an individual based on the physical characteristics of the**
14 **individual's face; or**

15 **(B) logs characteristics of an individual's face, head, or**
16 **body to infer emotion, associations, activities, or the**
17 **location of an individual.**

18 ~~(4)~~ **(8)** "Governmental entity" has the meaning set forth in
19 IC 35-31.5-2-144. For purposes of this chapter, "governmental
20 entity" also includes a person authorized to act on behalf of a state
21 or local agency.

22 ~~(5)~~ **(9)** "Intercept" means to acquire geolocation data through the
23 use of an electronic device, mechanical device, or other device.

24 ~~(6)~~ **(10)** "Remote computing service" means the provision to the
25 public of computer storage or processing services by means of an
26 electronic communication service.

27 ~~(7)~~ **(11)** "Use of an unmanned aerial vehicle" means the use of an
28 unmanned aerial vehicle by a law enforcement officer to obtain
29 evidence relevant to the enforcement of statutes, rules, or
30 regulations. The term includes:

31 **(A) the interception of wire, electronic, or oral**
32 **communications; and**

33 **(B) the capture, collection, monitoring, or viewing of images.**

34 ~~(8)~~ **(12)** "User" means any person who:

35 **(A) uses an electronic communication service, remote**
36 **computing service, geolocation information service, or an**
37 **electronic device; and**

38 **(B) may or may not be the person or entity having legal title,**
39 **claim, or right to the electronic device or electronic user data.**

40 SECTION 54. IC 35-33-5-9, AS AMENDED BY P.L.136-2019,
41 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 UPON PASSAGE]: Sec. 9. **(a)** A law enforcement officer ~~must obtain~~
43 ~~a search warrant in order to~~ **shall not acquire, possess, access, or use**
44 **in the airspace above Indiana or on the ground in Indiana, an**
45 **unmanned aerial vehicle, any biometric surveillance system or**
46 **information derived from a biometric surveillance system operated**

1 **by another entity, a cell-site simulator, or an automatic license**
 2 **plate reader:**

3 (1) on or over private property; or

4 (2) to conduct a search, perform surveillance, obtain a
 5 photograph, or obtain video of private property or of individuals,
 6 items, or structures located on private property;

7 without the consent of the owner of the affected private property.

8 However, a warrant is not required for a use of an unmanned aerial
 9 vehicle if a warrant would not be required for a search not using an
 10 unmanned aerial vehicle:

11 **(b) A law enforcement officer shall not acquire, possess, access,**
 12 **or use in the airspace above Indiana or on the ground in Indiana:**

13 **(1) an unmanned aerial vehicle;**

14 **(2) any biometric surveillance system or information derived**
 15 **from a biometric surveillance system operated by another**
 16 **entity;**

17 **(3) a cell-site simulator; or**

18 **(4) an automatic license plate reader;**

19 **to conduct a search, perform surveillance, obtain a photograph, or**
 20 **obtain video of an individual without the consent of the individual.**

21 **(c) A law enforcement officer who violates this section commits**
 22 **a Level 6 felony.**

23 **(d) A person who aids, induces, or causes a law enforcement to**
 24 **violate this section commits a Level 6 felony.**

25 SECTION 55. IC 35-33-5-10, AS ADDED BY P.L.170-2014,
 26 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 UPON PASSAGE]: Sec. 10. The following are not admissible as
 28 evidence in an administrative or judicial proceeding:

29 (1) A communication or an image that is obtained through the use
 30 of an unmanned aerial vehicle, **any biometric surveillance**
 31 **system or information derived from a biometric surveillance**
 32 **system operated by another entity, a cell-site simulator, or an**
 33 **automatic license plate reader** in violation of section 9 of this
 34 chapter.

35 (2) Evidence derived from a communication or an image
 36 described in subdivision (1)."

37 Page 84, between lines 23 and 24, begin a new paragraph and insert:

38 "SECTION 100. IC 35-45-15-3 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this
 40 chapter, "law enforcement officer" includes a federal enforcement
 41 officer **(as defined in IC 35-31.5-2-129)**."

42 Page 90, after line 14, begin a new paragraph and insert:

- 1 "SECTION 111. **An emergency is declared for this act.**"
- 2 Renumber all SECTIONS consecutively.
(Reference is to ESB 197 as printed April 1, 2021.)

Representative Jacob