

MEMORANDUM

TO: Uniform Law Commission, Drafting Committee, Tort Law Relating to Drones Act
FROM: Paul Kurtz, Chair, and Robert Heverly, Reporter
DATE: April 15, 2019
RE: Tort Law Relating to Drones, April 2018 Committee Phone Meeting

Attached is the current draft of the [Uniform] Tort Law Relating to Drones Act. Changes in the black letter and other decisions of the Committee made at our March meeting in Washington have been implemented in this draft. Additionally, the Prefatory Note has been extensively redone to match the current version of the Act. Commentary to individual sections has been beefed up and added.

At the conclusion of our Saturday deliberations in Washington, we had an extended discussion of what to do with Section 8 of the Act which deals with actions for invasion of privacy. At that time, Commissioner David Zvenyach volunteered to head up a working group to resolve the scope and content of this provision. The deliberations of this group have resulted in what appears in this draft.

Essentially, it provides for two alternative versions of Section 8. The first, designed for states which already have privacy laws in place, simply states that drones may be the instruments of invasion of privacy protections in other law of the enacting state. The second, intended for enactment in states which do not have existing invasion of privacy tort(s), provides an invasion of privacy statute limited to such invasions caused by the operation of drones.

We will begin our phone meeting next Monday with a discussion of the new Section 8. After that discussion is concluded we will discuss a couple of changes which the Committee should be made aware of:

- the movement of the previous Subsection 5(b)(8) which dealt with the capturing of images and information by drones into the Comment on Subsection 8(b)(2) which already dealt with purpose of the drone flight as a factor in determining whether a violation of Section 5 has occurred.
- the narrowing of the scope of Subsection 6(d) dealing with the recovery of drones which wind up on the land of another. The new version, unlike the prior version, tracks the rule provided in the Restatement of Torts.

Of course, if other matters need to be addressed we will take them up on Monday as well. As we prepare for our Act's consideration at the Anchorage Annual Meeting in July, it is important that we put continued effort into ensuring that our Act is ready for discussion and final approval at that meeting. Thanks in advance for your continued engagement in that project.