

Senate Judiciary Committee

Brendan Bunnell 271-4063

SB 519-FN, relative to the use of unmanned aerial systems.

Hearing Date: January 8, 2026

Time Opened: 1:07 p.m.

Time Closed: 1:46 p.m.

Members of the Committee Present: Senators Gannon, Abbas, Carson, Altschiller and Reardon

Members of the Committee Absent : None

Bill Analysis: This bill establishes a civil cause of action for the use of unmanned aerial systems for certain purposes that violate a reasonable expectation of privacy, subject to certain exceptions.

Sponsors:
Sen. Reardon

Who supports the bill: Senator Tara Reardon (SD-15), Steve Duprey, Neal Kurk, Sarah McCarthy, Daniel Richardson, Rebecca Hoskins, and Alasdair Witney (Institute for Justice)

Who opposes the bill: Michael McLaughlin, Jason Stock, Maura Weston (NECTA), Karen Soucy (CTIA), Lt. Chris Storm, Sean McLaughlin (NAMIC)

Who is neutral on the bill: Cam Lapine (APCIA and NHAOIC), Jamie Burnett (AT&T and APCIA), and Jeff Folger

Summary of testimony presented:

Senator Reardon (SD-15): Introduced Senate Bill 519-FN and explained that similar legislation in other states was titled Freedom from Unwanted Surveillance, which reflected the bill's purpose. Stated that the bill had been brought forward on behalf of a constituent who would testify in greater depth. Disclosed that multiple lobbyists had raised concerns about impacts on business interests and stated that a list of those concerns was being maintained. Noted that Senator Gannon had already drafted an amendment to address some of those issues. Acknowledged claims that existing

statutes already covered the issue but stated that a review showed those statutes were incomplete compared to the proposed bill.

- Senator Gannon asked whether federal laws had been reviewed as part of the analysis.
 - Senator Reardon responded that Steve Duprey would address federal law and preemption issues in his testimony. Stated that the intent was to prevent unwanted surveillance while not infringing on legitimate business uses of drones. Explained that exemptions for those uses were being tracked and that the bill would require further work rather than immediate resolution. Deferred to Steve Duprey for detailed testimony. Gave examples of legitimate uses such as roof inspections and telecommunications infrastructure work and indicated those activities would be included as exemptions.

Steve Duprey: A resident of Concord New Hampshire, he stated that he was not affiliated with any organization or coalition. Explained that New Hampshire's legislative process allowed individuals to bring forward ideas and that his interest arose from research into privacy issues. Described a technological gap in existing law due to the rapid proliferation of drones and explained that drones created new privacy threats because they could hover overhead without physical trespass or detection.

- Explained that while the FAA regulated airspace safety and navigation, it explicitly did not regulate privacy. Stated that courts had consistently held that states were empowered and expected to fill that privacy gap. Explained that without statutory limits, residents were exposed to intrusive surveillance by hobbyists, paparazzi-style operators, and individuals engaged in stalking or harassment.
- Indicated that several states had enacted drone privacy laws, including Florida, California, Michigan, North Carolina, Indiana, and Ohio. Described Florida's Freedom from Unwarranted Surveillance Act as the strongest model because it broadly defined surveillance, prohibited observation beyond image capture, required written consent, and relied on a reasonable expectation of privacy standard based on whether activity was observable from lawful ground-level vantage points.
- Stated that the proposed bill would proactively protect privacy while providing clarity for hobbyists, businesses, and law enforcement. Addressed claims that RSA 644:9 and RSA 644:23 already covered the issue and explained that they did not. Stated that RSA 644:9 deferred to FAA rules, which did not address privacy, and that RSA 644:23 focused narrowly on intimate imagery rather than general drone surveillance.
- Reviewed existing New Hampshire rules governing drones, including prohibitions on launching in state parks, forest service restrictions near alpine zones and trails, prohibitions on drone use for hunting and wildlife tracking,

and DOT directives limiting drone operations near transportation infrastructure. Explained that under current law, drones could repeatedly fly over private property so long as they did not hover or record, creating a loophole that allowed persistent observation.

- Provided an example from Dunbarton where a neighbor repeatedly flew a drone over a family's property to observe their teenage daughter, and local police stated they had no legal authority to intervene. Explained that the bill's purpose was to establish a reasonable expectation of privacy on one's own property, subject to lawful exceptions. Expressed openness to amendments and concluded his testimony.
- Senator Gannon reiterated the need for protections for legitimate business, insurance, and tax assessment uses.
- Senator Abbas raised concerns about drone use for wildlife photography, such as monitoring eagle nests, and questioned whether the bill would inadvertently restrict those activities.
 - Steve Duprey explained that allowing drone photography of wildlife on private property without consent raised privacy concerns. Gave an example involving a bald eagle landing on private property and argued that aerial access should not bypass the same property rights that applied at ground level.
- Senator Abbas asked about situations involving lakes or public water where drones might capture nearby private property.
 - Steve Duprey explained that the core issue was whether someone had a legitimate purpose to fly over private property and observe individuals. Reiterated that the legal standard was reasonable expectation of privacy.
- Senator Abbas raised examples of non-drone observation, such as people fishing near private docks.
 - Steve Duprey explained that existing law already allowed observation from lawful public vantage points. Stated that if activity was visible from the street, there was no reasonable expectation of privacy, but if activity occurred on secluded property not observable from public areas, there was an expectation of privacy.
- Senator Abbas confirmed that the bill targeted situations involving secluded or large properties where drones hovered overhead.
 - Steve Duprey affirmed that the bill relied on the established reasonable-expectation-of-privacy standard and whether activity was observable from street level.

- Senator Gannon asked whether an existing statutory definition of surveillance existed and expressed concern that the bill would create a definition applicable across other areas of law.
 - Steve Duprey explained that the definition had been drawn from six other states and that he selected the strictest version among them.

Neal Kirk, of Weare New Hampshire, testified in support of the bill. Explained that drone use was rapidly increasing and would soon be ubiquitous. Described drones as uniquely capable of intruding into private spaces. Noted that while higher-altitude airspace was federally regulated, privacy protections remained a state responsibility.

- Praised the sponsor but stated that the bill needed clarification and expansion. Explained that the definition of surveillance focused primarily on people and insufficiently addressed property. Stated that law enforcement exceptions needed expansion, particularly for missing-person searches.
- Raised concerns about data retention, warning that long-term storage of drone imagery could create unconstitutional databases of personal information. Explained that law enforcement agencies were often willing to delete non-evidentiary data.
- Criticized the licensed business operations exemption as overly broad and potentially undermining the bill. Questioned what licenses qualified, who issued them, whether images could be sold or published, and for what purposes. Supported exemptions for utilities, tax appraisal, and emergency assessments but emphasized limits on scope, duration, and image blurring.
- Senator Gannon asked how the bill would apply to companies like Google that used street-level and aerial imagery.
 - Neal Kirk explained that street-level imagery from public roads would not be restricted. Stated that satellite imagery would not be covered, but drone-based imagery would be. Noted that current business exemptions allowed such imagery without privacy safeguards, reinforcing the need for amendments.
- Senator Gannon asked whether limits on image storage and access should be written into an amendment.
 - Neal Kirk responded affirmatively.

Lieutenant Chris Storm, with the New Hampshire State Police, stated that the Department of Safety opposed the bill as written, despite viewing it as well-intentioned. Explained that many concerns raised earlier in the hearing, including those previously expressed by Representative Kerr, were shared by the Department. Focused particularly on how the bill defined surveillance and how those definitions overlapped with existing law. Stated that RSA 644:9 already prohibited transmitting

or capturing images of individuals in private places or in states of undress, and indicated disagreement with testimony suggesting that current law failed to address those privacy concerns.

- Explained that RSA 644:23 had taken effect only eight days prior to the hearing and that law enforcement had not yet observed how that statute would be interpreted or enforced. Expressed concern that creating additional statutory language before seeing how the new law operated could be redundant and confusing for law enforcement officers attempting to determine which statute applied in a given situation. Stated that the bill, as drafted, could interfere with law enforcement operations due to restrictions placed on permissible drone use.
- Senator Gannon responded by stating that the bill sponsors were working on amendments to address law enforcement needs, including valid warrants, exigent circumstances, and counterterrorism operations. Indicated that amendments were forthcoming and suggested that the Department of Safety revisit the bill after those changes were made.
- Lieutenant Chris Storm agreed and added that the Federal Aviation Administration exercised exclusive authority over airspace regulation. Explained that while certain privacy-related provisions might survive federal preemption, the state could not regulate airspace itself because federal preemption applied fully once an aircraft took off.
- Senator Gannon asked whether the FAA regulation referenced altitude limits, including the commonly cited 400-foot drone ceiling.
 - Lieutenant Chris Storm clarified that airspace regulation applied from the surface upward and that once an aircraft left the ground, it entered regulated airspace. Acknowledged that the 400-foot limit applied to drones but emphasized that airspace jurisdiction still began at takeoff.
- Senator Abbas asked whether, despite the bill being unsupported as written, additional law-enforcement exceptions could be added to improve it.
 - Lieutenant Chris Storm explained that law enforcement regularly used drones for crime-scene documentation and accident reconstruction. Stated that requiring a warrant for each use would significantly delay investigations, prolong road closures, and disrupt public safety operations. Added that in response to a prior question from Representative Kirk, the State Police had adopted retention policies years earlier limiting how long drone imagery was kept unless it had evidentiary value.
- Senator Abbas suggested that active pursuits might already qualify as exigent circumstances under the bill.

- o Lieutenant Chris Storm added that drones were used extensively for search-and-rescue and missing-person operations, often on a daily basis, and emphasized the importance of clearly exempting those activities.
- Senator Abbas raised a question about federal preemption, comparing it to state enforcement of drug laws that mirrored federal statutes.
 - o Lieutenant Chris Storm stated that he did not have a definitive answer but offered to research the issue further, while suggesting that Patricia Lambert could provide more insight.

Patricia Lambert, Administrator of the Bureau of Aeronautics at the New Hampshire Department of Transportation, explained that while conduct such as hovering near windows and peering inside could fall under existing privacy statutes, restrictions on flying over property or capturing images from the air constituted regulation of airspace, which fell exclusively under FAA authority. Stated that if FAA regulations were violated, the state would refer the matter to the FAA for investigation.

- Clarified that the state could not regulate airspace directly but could regulate takeoff and landing from state-owned property. Provided examples involving state parks and highways, explaining that the state could prohibit launching drones from those locations but could not prevent drones launched from adjacent private property from flying overhead, so long as FAA rules were followed.
- Senator Abbas asked whether federal preemption extended to low-altitude drone operations, comparing drones to consumer devices rather than traditional aircraft.
 - o Patricia Lambert explained that the most effective state-level regulation involved controlling takeoff and landing locations rather than flight paths. Reiterated that the state lacked authority to regulate airspace itself or the aircraft once airborne.
- Senator Abbas asked whether any Supreme Court cases addressed drone-related airspace preemption.
 - o Lieutenant Chris Storm stated that he was unaware of specific Supreme Court cases involving drones but noted that preemption issues were being debated nationwide. Explained that many states faced similar challenges and that attempts to regulate airspace often stalled due to federal preemption. Emphasized that existing law already permitted aerial photography from airplanes, helicopters, and other aircraft, and reiterated that law enforcement was not opposed to addressing privacy concerns but wanted to ensure legislation was legally sound.

- Senator Carson raised concerns about privacy impacts from commercial drone use, particularly insurance inspections over residential property. Suggested that a notification requirement for abutters could help balance privacy interests without prohibiting flight.
 - Lieutenant Chris Storm stated that while the idea made sense, notification requirements could still be viewed as restrictions related to airspace activity.
- Senator Carson clarified that notification would not prohibit activity but would provide advance notice so residents could take precautions.
 - Lieutenant Chris Storm agreed that such an approach might be workable.
 - Patricia Lambert added that the Department of Transportation used drones for infrastructure and traffic monitoring and noted that wide camera scopes could incidentally capture vehicles or individuals. Expressed concern that identifying and notifying all potentially affected individuals could be difficult in practice.
 - Senator Carson compared drone notification to common surveillance technologies such as doorbell cameras, noting that incidental image capture was already widespread and beneficial to law enforcement. Suggested that signage or notification could be a reasonable compromise.
 - Lieutenant Chris Storm agreed and emphasized that broader collaboration was needed to ensure privacy protections were balanced with operational and legal realities, stating that privacy concerns could potentially be addressed without violating federal preemption.

Maura Weston, testifying on behalf of NECTA, representing telecommunications providers, expressed understanding of the bill's intent but requested additional exemptions for infrastructure inspection, maintenance, and storm response. Explained that drones improved worker safety and response times and that notification requirements could be burdensome during emergencies. Requested an exemption for legitimate news coverage and submitted proposed language in written testimony.

Cam Lapine, of Orr and Reno, representing the American Property Casualty Insurance Association and the New Hampshire Association of Domestic Insurance Companies. Stated that the insurance industry requested an explicit exemption for insurance companies conducting legitimate insurance-related activities, such as inspections and damage assessments. Expressed support for Amendment 2026-049S drafted by Senator Gannon and urged the committee to advance the amendment.