

AN ACT

relating to the operations and monitoring of fusion centers in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 421.001, Government Code, is amended by adding Subdivisions (2-a), (4), and (5) to read as follows:

(2-a) "Fusion center" means a state or regional multidisciplinary collaborative effort of two or more agencies that combine resources, expertise, and intelligence and other information with the goal of maximizing the ability of those agencies to detect, prevent, and respond to criminal activities or to otherwise engage in homeland security activities.

(4) "Intelligence" means the product of systematic gathering, evaluation, and synthesis of raw data on individuals or activities suspected of being, or known to be, criminal in nature.

(5) "Recognized fusion center" means a fusion center operating in this state that has been recognized by the director of Texas Homeland Security as meeting the fusion center mission identified in the governor's homeland security strategy and in the Department of Homeland Security State, Local, and Regional Fusion Center Initiative established under 6 U.S.C. Section 124h.

SECTION 2. Section 421.002(b), Government Code, is amended to read as follows:

(b) The governor's homeland security strategy shall

1 coordinate homeland security activities among and between local,  
2 state, and federal agencies and the private sector and must include  
3 specific plans for:

4 (1) intelligence gathering and analysis;

5 (2) information sharing;

6 (3) reducing the state's vulnerability to homeland  
7 security emergencies;

8 (4) protecting critical infrastructure;

9 (5) protecting the state's international border,  
10 ports, and airports;

11 (6) detecting, deterring, and defending against  
12 terrorism, including cyber-terrorism and biological, chemical, and  
13 nuclear terrorism;

14 (7) positioning equipment, technology, and personnel  
15 to improve the state's ability to respond to a homeland security  
16 emergency;

17 (8) directing the Texas Fusion [~~Infrastructure~~  
18 ~~Protection Communications~~] Center and giving the center certain  
19 forms of authority to implement the governor's homeland security  
20 strategy; and

21 (9) using technological resources to:

22 (A) facilitate the interoperability of  
23 government technological resources, including data, networks, and  
24 applications;

25 (B) coordinate the warning and alert systems of  
26 state and local agencies;

27 (C) incorporate multidisciplinary approaches to

1 homeland security; and

2 (D) improve the security of governmental and  
3 private sector information technology and information resources.

4 SECTION 3. Section 421.071, Government Code, is amended to  
5 read as follows:

6 Sec. 421.071. COOPERATION AND ASSISTANCE. A state or local  
7 agency that performs a homeland security activity or a  
8 nongovernmental entity that contracts with a state or local agency  
9 to perform a homeland security activity shall cooperate with and  
10 assist the office of the governor, the Homeland Security Council,  
11 the Texas Fusion [~~Infrastructure Protection Communications~~]  
12 Center, and the National Infrastructure Protection Center in the  
13 performance of their duties under this chapter and other state or  
14 federal law.

15 SECTION 4. The heading to Subchapter E, Chapter 421,  
16 Government Code, is amended to read as follows:

17 SUBCHAPTER E. TEXAS FUSION CENTER AND OTHER FUSION CENTERS  
18 OPERATING IN THIS STATE

19 SECTION 5. Sections 421.082(a) and (b), Government Code,  
20 are amended to read as follows:

21 (a) The Texas Fusion Center [~~center~~] shall serve as the  
22 state's primary entity for the planning, coordination, and  
23 integration of government communications capabilities to help  
24 implement the governor's homeland security strategy and ensure an  
25 effective response in the event of a homeland security emergency.

26 (b) The center's duties include:

27 (1) promotion of emergency preparedness;

1           (2) receipt and analysis of information, assessment of  
2 threats, and issuance of public warnings related to homeland  
3 security emergencies; ~~and~~

4           (3) authorization and facilitation of cooperative  
5 efforts related to emergency response and recovery efforts in the  
6 event of a homeland security emergency; and

7           (4) making recommendations to the Department of Public  
8 Safety regarding the monitoring of fusion centers operating in this  
9 state and regarding the functions of the Texas Fusion Center Policy  
10 Council created under Section 421.083.

11           SECTION 6. Subchapter E, Chapter 421, Government Code, is  
12 amended by adding Sections 421.083, 421.084, 421.085, and 421.086  
13 to read as follows:

14           Sec. 421.083. TEXAS FUSION CENTER POLICY COUNCIL. (a) The  
15 Department of Public Safety shall create the Texas Fusion Center  
16 Policy Council and the bylaws for the council to assist the  
17 department in monitoring fusion center activities in this state.

18           (b) The policy council is composed of one executive  
19 representative from each recognized fusion center operating in this  
20 state.

21           (c) The policy council shall:

22                 (1) develop and disseminate strategies to:

23                         (A) facilitate the implementation of applicable  
24 federal standards and programs on a statewide basis by each fusion  
25 center operating in this state;

26                         (B) expand and enhance the statewide  
27 intelligence capacity to reduce the threat of terrorism and

1 criminal enterprises; and

2 (C) continuously review critical issues  
3 pertaining to homeland security activities;

4 (2) establish a privacy advisory group, with at least  
5 one member who is a privacy advocate, to advise the policy council  
6 and to meet at the direction of the policy council; and

7 (3) recommend best practices for each fusion center  
8 operating in this state, including:

9 (A) best practices to ensure that the center  
10 adheres to 28 C.F.R. Part 23 and any other federal or state law  
11 designed to protect privacy and the other legal rights of  
12 individuals; and

13 (B) best practices for the smooth exchange of  
14 information among all fusion centers operating in this state.

15 Sec. 421.084. FUSION CENTERS OPERATING IN THIS STATE:  
16 RULES AND MONITORING. (a) After considering the recommendations  
17 of the Texas Fusion Center under Section 421.082(b)(4) and the  
18 Texas Fusion Center Policy Council under Section 421.083(c)(3), the  
19 Department of Public Safety shall adopt rules to govern the  
20 operations of fusion centers in this state, including guidelines  
21 to:

22 (1) for any fusion center operating in this state,  
23 establish a common concept of operations to provide clear baseline  
24 standards for each aspect of the center's activities;

25 (2) inform and define the monitoring of those  
26 activities by the Texas Fusion Center Policy Council; and

27 (3) ensure that any fusion center operating in this

1 state adheres to federal and state laws designed to protect privacy  
2 and the other legal rights of individuals, including 28 C.F.R. Part  
3 23 and any other law that provides clear standards for the treatment  
4 of intelligence or for the collection and storage of noncriminal  
5 information, personally identifiable information, or protected  
6 health information.

7 (b) The Department of Public Safety may require that a  
8 fusion center audited under applicable department rules pay any  
9 costs incurred by the policy council in relation to the audit.

10 (c) A member of the policy council may not receive  
11 compensation but is entitled to reimbursement for the member's  
12 travel expenses as provided by Chapter 660 and the General  
13 Appropriations Act.

14 (d) A fusion center may not receive state grant money if the  
15 center adopts a rule, order, ordinance, or policy under which the  
16 center fails or refuses to comply with rules adopted by the  
17 Department of Public Safety under Subsection (a), beginning with  
18 the first state fiscal year occurring after the center adopts the  
19 rule, order, ordinance, or policy.

20 Sec. 421.085. PRIVACY POLICY REQUIRED. (a) Each fusion  
21 center operating in this state shall adopt a privacy policy  
22 providing at a minimum that, with respect to an individual or  
23 organization, the fusion center:

24 (1) will not seek, collect, or retain information that  
25 is based solely on any of the following factors, as applicable to  
26 that individual or organization:

27 (A) religious, political, or social views or

1 activities;

2 (B) participation in a particular organization  
3 or event; or

4 (C) race, ethnicity, citizenship, place of  
5 origin, age, disability, gender, or sexual orientation; and

6 (2) will take steps to ensure that any agency that  
7 submits information to the fusion center does not submit  
8 information based solely on a factor described by Subdivision (1).

9 (b) In a criminal investigation, a factor described by  
10 Subsection (a)(1) may not alone give rise to reasonable suspicion.  
11 However, a factor described by Subsection (a)(1) may be used in  
12 connection with a specific description of a suspect in the  
13 investigation.

14 Sec. 421.086. REPORT. The Texas Fusion Center Policy  
15 Council annually shall submit to the governor and to each house of  
16 the legislature a report that contains, with respect to the  
17 preceding year:

18 (1) the council's progress in developing and  
19 coordinating the statewide fusion effort and intelligence network  
20 described by the governor's homeland security strategy;

21 (2) the progress made by fusion centers operating in  
22 this state in meeting the fusion center guidelines developed under  
23 the Department of Homeland Security State, Local, and Regional  
24 Fusion Center Initiative established under 6 U.S.C. Section 124h;  
25 and

26 (3) a summary of fusion center audits or reviews  
27 conducted under applicable rules adopted by the Department of

1 Public Safety.

2           SECTION 7. This Act takes effect immediately if it receives  
3 a vote of two-thirds of all the members elected to each house, as  
4 provided by Section 39, Article III, Texas Constitution. If this  
5 Act does not receive the vote necessary for immediate effect, this  
6 Act takes effect September 1, 2011.



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President of the Senate

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Speaker of the House

I certify that H.B. No. 3324 was passed by the House on May 13, 2011, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3324 on May 25, 2011, by the following vote: Yeas 144, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 3324 was passed by the Senate, with amendments, on May 23, 2011, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor