

By: Campbell

S.B. No. 2377

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to homeland security, including the creation of the Texas  
3 Homeland Security Division in the Department of Public Safety, the  
4 operations of the Homeland Security Council, the creation of a  
5 homeland security fusion center, and the duties of state agencies  
6 and local governments in preparing for, reporting, and responding  
7 to cybersecurity breaches; providing administrative penalties;  
8 creating criminal offenses.

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

10 SECTION 1. (a) The legislature finds that the federal  
11 government's inadequate border security measures, the trafficking  
12 of fentanyl across the borders of this state, Central America's  
13 turn towards authoritarian regimes, China's hostile rhetoric  
14 regarding Taiwan, and Russia's invasion of Ukraine create an  
15 ever-changing threat landscape to the security of this state.

16 (b) Due to these continuous threats, this state must  
17 continue taking serious measures to secure its critical  
18 infrastructure, cyber networks, and border and monitor security  
19 threats from hostile nations and non-state actors.

20 (c) These present and future threats require this state to  
21 create a unified security organization under the Department of  
22 Public Safety of the State of Texas whose sole mission is to  
23 safeguard the people and infrastructure that make this state great.

24 (d) The Texas Homeland Security Division, as established by

1 this Act, will unify this state's security responsibilities into  
2 one entity that reports directly to the governor and the public  
3 safety director of the Department of Public Safety of the State of  
4 Texas.

5 SECTION 2. Chapter 411, Government Code, is amended by  
6 adding Subchapter S to read as follows:

7 SUBCHAPTER S. TEXAS HOMELAND SECURITY DIVISION

8 Sec. 411.551. DEFINITIONS. In this subchapter:

9 (1) "Division" means the Texas Homeland Security  
10 Division established in the department under this subchapter.

11 (2) "Division director" means the director of the  
12 Texas Homeland Security Division appointed under this subchapter.

13 Sec. 411.552. ESTABLISHMENT; DIRECTOR; EMPLOYEES. (a) The  
14 Texas Homeland Security Division is established in the department.

15 (b) Notwithstanding Section 411.006(a)(6), the public  
16 safety director shall appoint, with the advice and consent of the  
17 governor, a homeland security director to manage the division.

18 (c) The division director may hire employees as necessary to  
19 carry out the duties of the division.

20 Sec. 411.553. GENERAL DUTIES. The division shall, in  
21 consultation with the governor:

22 (1) develop and implement strategic homeland security  
23 operations; and

24 (2) unify governmental activities and  
25 responsibilities related to homeland security under the direction  
26 of the division.

27 Sec. 411.554. BORDER SECURITY: INTELLIGENCE. (a) The

1 division shall coordinate with the Texas Military Department, state  
2 and local law enforcement agencies, federal agencies, and any other  
3 entity the division determines appropriate to secure the  
4 international border.

5 (b) In coordinating with the entities described by  
6 Subsection (a), the division shall:

7 (1) collect, analyze, and provide intelligence for  
8 each major operation to secure the international border, including  
9 consulting with the Texas Military Department and other appropriate  
10 agencies that collect, analyze, or provide intelligence to the  
11 governor, the department, and other entities deployed on major  
12 operations;

13 (2) make recommendations on essential tasks and  
14 desired results for each element of a major operation;

15 (3) provide augmented equipment and personnel for a  
16 major operation; and

17 (4) conduct periodic internal reviews of  
18 interoperability among agencies deployed on a major operation and  
19 make available reports on subsequent efforts to improve  
20 interoperability.

21 (c) Each month, the division shall provide a report to the  
22 governor on the major operations conducted by this state to secure  
23 the international border.

24 Sec. 411.555. BORDER SECURITY: GRANT RECOMMENDATIONS. The  
25 division shall advise the criminal justice division of the  
26 governor's office on the allocation of grants under the prosecution  
27 of border crime grant program established under Section [772.0071](#).

1       Sec. 411.556. CRITICAL INFRASTRUCTURE AND POWER GRID. (a)

2       The division shall coordinate with federal, state, and local  
3       agencies, and any other entity the division determines appropriate,  
4       to protect the critical infrastructure of this state and the ERCOT  
5       power grid from remote and physical attacks, including:

6               (1) oil and gas infrastructure, including:

7                       (A) oil, gas, and chemical pipelines;

8                       (B) oil and gas drilling sites; and

9                       (C) oil, gas, and chemical production  
10       facilities;

11               (2) electrical power generating facilities,  
12       substations, switching stations, and electrical control centers;

13               (3) petroleum and alumina refineries and chemical,  
14       polymer, and rubber manufacturing facilities; and

15               (4) water intake structures, water treatment  
16       facilities, wastewater treatment plants, and pump stations.

17       (b) In coordinating the efforts of this state to secure  
18       critical infrastructure and the ERCOT power grid, the division  
19       shall cooperate with the Cybersecurity and Infrastructure Security  
20       Agency, the United States Department of Energy, and the Homeland  
21       Security Fusion Center.

22       Sec. 411.557. CRITICAL INFRASTRUCTURE: INVESTIGATION OF  
23       CERTAIN PURCHASES. The division shall investigate any purchases of  
24       substantial portions of land or infrastructure in this state by a  
25       designated country, as that term is defined by Section [2274.0101](#),  
26       as added by Chapter 975 (S.B. 2116), Acts of the 87th Legislature,  
27       Regular Session, 2021.

1       Sec. 411.558. PROHIBITED EQUIPMENT REPORTS. At least  
2 annually, the division shall issue a report to the governor,  
3 lieutenant governor, members of the legislature, and all state  
4 agencies identifying equipment that the United States Department of  
5 Defense has prohibited entities that contract with the department  
6 of defense from using.

7       Sec. 411.559. CYBERSECURITY: WEBSITE FOR REPORTING THREATS  
8 AND ATTACKS. The division shall develop a secure Internet website  
9 that is accessible by state agencies and local governments and  
10 permits those entities to report to the division suspected  
11 cybersecurity threats and attacks against those entities.

12       Sec. 411.560. BUDGET REQUESTS. (a) Not later than April 1  
13 of each even-numbered year, the division director shall submit to  
14 the public safety director a request for appropriations that  
15 estimates the cost of the division's operations.

16       (b) A request for appropriations described by Subsection  
17 (a) may not be aggregated with any other appropriation request made  
18 by the department when the request is submitted to a legislative  
19 committee with jurisdiction over appropriations.

20       SECTION 3. Section [421.021](#), Government Code, is amended by  
21 adding Subsection (a-1) to read as follows:

22       (a-1) The Homeland Security Council is composed of:

23               (1) the governor or the governor's designee;

24               (2) the lieutenant governor or the lieutenant  
25 governor's designee;

26               (3) the director of the Texas Homeland Security  
27 Division of the Department of Public Safety; and

1           (4) other persons appointed by the governor or  
2 lieutenant governor.

3           SECTION 4. Section 421.023, Government Code, is amended by  
4 amending Subsections (c) and (d) and adding Subsection (f) to read  
5 as follows:

6           (c) The governor shall designate the director of the Texas  
7 Homeland Security Division of the Department of Public Safety as  
8 the presiding officer of the council.

9           (d) The council shall meet at the call of the presiding  
10 officer [~~governor~~] and shall meet at least once each quarter in a  
11 calendar year.

12           (f) The presiding officer shall appoint a secretary, who may  
13 be a member of the council, to record meeting minutes and  
14 attendance.

15           SECTION 5. Section 421.024, Government Code, is amended to  
16 read as follows:

17           Sec. 421.024. DUTIES.       The council shall advise the  
18 governor on:

19           (1) the implementation of the governor's homeland  
20 security strategy by state and local agencies and provide specific  
21 suggestions for helping those agencies implement the strategy;  
22 [~~and~~]

23           (2) recommendations from the Texas Homeland Security  
24 Division of the Department of Public Safety on improving the  
25 security of this state; and

26           (3) other matters related to the planning,  
27 development, coordination, and implementation of initiatives to

1 promote the governor's homeland security strategy.

2 SECTION 6. Chapter 421, Government Code, is amended by  
3 adding Subchapter E-1 to read as follows:

4 SUBCHAPTER E-1. HOMELAND SECURITY FUSION CENTER

5 Sec. 421.0901. DEFINITIONS. In this subchapter:

6 (1) "Board" means the oversight board of the homeland  
7 security fusion center.

8 (2) "Director" means the director of the Texas  
9 Homeland Security Division of the Department of Public Safety.

10 Sec. 421.0902. HOMELAND SECURITY FUSION CENTER. (a) From  
11 funds available for this purpose, the director may:

12 (1) establish the homeland security fusion center; and

13 (2) hire employees to operate the homeland security  
14 fusion center.

15 (b) The homeland security fusion center shall:

16 (1) collect, receive, generate, and disseminate  
17 intelligence critical for homeland security policy and homeland  
18 security activities in this state, including the issuance of  
19 relevant threat warnings;

20 (2) promote and improve intelligence sharing:

21 (A) among public safety and public service  
22 agencies at the federal, state, local, and tribal levels; and

23 (B) with entities in the private sector operating  
24 critical infrastructure and other key resources;

25 (3) otherwise support federal, state, local, and  
26 tribal agencies and private organizations in preventing, preparing  
27 for, responding to, and recovering from homeland security threats

1 and attacks; and

2 (4) maintain intelligence collected, received, or  
3 generated in compliance with applicable state and federal law and  
4 in a secure manner, including:

5 (A) providing appropriate security for a  
6 facility that contains sensitive information;

7 (B) compartmentalizing sensitive information;

8 and

9 (C) adopting appropriate internal procedures for  
10 the security of the facility and the information.

11 Sec. 421.0903. OVERSIGHT BOARD; QUALIFICATIONS; RULES. (a)  
12 If the homeland security fusion center is established under Section  
13 421.0902, there is also established an oversight board that shall  
14 govern the operations of the homeland security fusion center.

15 (b) The board is composed of:

16 (1) the director;

17 (2) the adjutant general; and

18 (3) other persons appointed by the director.

19 (c) The director serves as the chair of the board and the  
20 adjutant general serves as the vice chair.

21 (d) A member of the board must have and maintain a secret  
22 security clearance granted by the United States government. A  
23 person who has applied for a secret security clearance and has been  
24 granted an interim secret security clearance may serve as a member  
25 of the board but may not be given access to classified information,  
26 participate in a briefing involving classified information, or vote  
27 on an issue involving classified information before the person is



1 granted a secret security clearance.

2 (e) The board may adopt rules, policies, and procedures for  
3 the operation of the homeland security fusion center.

4 Sec. 421.0904. GIFTS, GRANTS, AND DONATIONS; DEDICATED  
5 ACCOUNT. (a) The homeland security fusion center may accept gifts,  
6 grants, and donations of any kind from any public or private source,  
7 including services or property, for the purpose of paying the costs  
8 to establish, maintain, or operate the homeland security fusion  
9 center.

10 (b) The homeland security fusion center shall remit all  
11 amounts received under this section to the comptroller. The  
12 comptroller shall deposit the amounts to the credit of an account in  
13 the general revenue fund that may be appropriated only to the  
14 Department of Public Safety to provide funding for establishing,  
15 maintaining, or operating the homeland security fusion center.

16 (c) The board must approve expenditures made for the  
17 purposes described by Subsection (b).

18 Sec. 421.0905. ADMINISTRATIVE SUPPORT. The Texas Homeland  
19 Security Division of the Department of Public Safety shall provide  
20 administrative support for the homeland security fusion center and  
21 the board, including securely maintaining the records of the board.

22 SECTION 7. Section 2054.077(d), Government Code, is amended  
23 to read as follows:

24 (d) The information security officer shall provide an  
25 electronic copy of the vulnerability report on its completion to:

26 (1) the Texas Homeland Security Division of the  
27 Department of Public Safety;

- 1           (2) the department;
- 2           (3) [~~(2)~~] the state auditor;
- 3           (4) [~~(3)~~] the agency's executive director;
- 4           (5) [~~(4)~~] the agency's designated information  
5 resources manager; and
- 6           (6) [~~(5)~~] any other information technology security  
7 oversight group specifically authorized by the legislature to  
8 receive the report.

9           SECTION 8. Section [2054.1125](#), Government Code, is amended  
10 by amending Subsection (b) and adding Subsections (d) and (e) to  
11 read as follows:

12           (b) A state agency that owns, licenses, or maintains  
13 computerized data that includes sensitive personal information,  
14 confidential information, or information the disclosure of which is  
15 regulated by law shall, in the event of a breach or suspected breach  
16 of system security or an unauthorized exposure of that information:

17                   (1) comply with the notification requirements of  
18 Section [521.053](#), Business & Commerce Code, to the same extent as a  
19 person who conducts business in this state; and

20                   (2) not later than 48 hours after the discovery of the  
21 breach, suspected breach, or unauthorized exposure, notify:

22                           (A) the Texas Homeland Security Division of the  
23 Department of Public Safety;

24                           (B) the department, including the chief  
25 information security officer; and

26                           (C) [~~or (B)~~] if the breach, suspected breach, or  
27 unauthorized exposure involves election data, the secretary of

1 state.

2 (d) The Texas Homeland Security Division of the Department  
3 of Public Safety shall notify the governor of any breach or  
4 suspected breach reported to the division under this section.

5 (e) The administrative head of a state agency commits an  
6 offense if the person intentionally or knowingly fails to notify  
7 the Texas Homeland Security Division of the Department of Public  
8 Safety of a breach, suspected breach, or unauthorized exposure, as  
9 required by Subsection (b)(2)(A). An offense under this subsection  
10 is a Class C misdemeanor.

11 SECTION 9. Section 2054.133(f), Government Code, is amended  
12 to read as follows:

13 (f) Not later than November 15 of each even-numbered year,  
14 the department shall submit a written report to the governor, the  
15 lieutenant governor, and each standing committee of the legislature  
16 with primary jurisdiction over matters related to the department  
17 evaluating information security for this state's information  
18 resources. In preparing the report, the department shall consider  
19 the information security plans submitted by state agencies under  
20 this section, any vulnerability reports submitted under Section  
21 2054.077, any relevant information provided by the Texas Homeland  
22 Security Division of the Department of Public Safety, and other  
23 available information regarding the security of this state's  
24 information resources. The department shall omit from any written  
25 copies of the report information that could expose specific  
26 vulnerabilities in the security of this state's information  
27 resources.

1 SECTION 10. Section 2054.511, Government Code, is amended  
2 to read as follows:

3 Sec. 2054.511. CYBERSECURITY COORDINATOR. (a) The  
4 executive director shall designate an employee of the department as  
5 the state cybersecurity coordinator to oversee cybersecurity  
6 matters for this state.

7 (b) The director of the Texas Homeland Security Division of  
8 the Department of Public Safety and the cybersecurity coordinator  
9 shall jointly improve the efficacy and efficiency of this state's  
10 response to and investigations of cyber attacks occurring in this  
11 state.

12 SECTION 11. Section 2054.512(b), Government Code, is  
13 amended to read as follows:

14 (b) The cybersecurity council must include:

15 (1) one member who is an employee of the office of the  
16 governor;

17 (2) one member of the senate appointed by the  
18 lieutenant governor;

19 (3) one member of the house of representatives  
20 appointed by the speaker of the house of representatives;

21 (4) the director of the Texas Homeland Security  
22 Division of the Department of Public Safety;

23 (5) one member who is an employee of the Elections  
24 Division of the Office of the Secretary of State; and

25 (6) [~~5~~] additional members appointed by the state  
26 cybersecurity coordinator, including representatives of  
27 institutions of higher education and private sector leaders.

1 SECTION 12. Section 2054.515(b), Government Code, as  
2 amended by Chapters 567 (S.B. 475) and 856 (S.B. 800), Acts of the  
3 87th Legislature, Regular Session, 2021, is reenacted and amended  
4 to read as follows:

5 (b) Not later than December 1 of the year [~~November 15 of~~  
6 ~~each even-numbered year~~] in which a state agency conducts the  
7 assessment under Subsection (a) or the 60th day after the date the  
8 agency completes the assessment, whichever occurs first, the agency  
9 shall report the results of the assessment to:

10 (1) the Texas Homeland Security Division of the  
11 Department of Public Safety;

12 (2) the department; and

13 (3) [~~(2)~~] on request, the governor, the lieutenant  
14 governor, and the speaker of the house of representatives.

15 SECTION 13. Section 2054.518(a), Government Code, is  
16 amended to read as follows:

17 (a) In consultation with the Texas Homeland Security  
18 Division of the Department of Public Safety, the [~~The~~] department  
19 shall develop a plan to address cybersecurity risks and incidents  
20 in this state. The department may enter into an agreement with a  
21 national organization, including the National Cybersecurity  
22 Preparedness Consortium, to support the department's efforts in  
23 implementing the components of the plan for which the department  
24 lacks resources to address internally. The agreement may include  
25 provisions for:

26 (1) providing technical assistance services to  
27 support preparedness for and response to cybersecurity risks and

1 incidents;

2 (2) conducting cybersecurity simulation exercises for  
3 state agencies to encourage coordination in defending against and  
4 responding to cybersecurity risks and incidents;

5 (3) assisting state agencies in developing  
6 cybersecurity information-sharing programs to disseminate  
7 information related to cybersecurity risks and incidents; and

8 (4) incorporating cybersecurity risk and incident  
9 prevention and response methods into existing state emergency  
10 plans, including continuity of operation plans and incident  
11 response plans.

12 SECTION 14. Subchapter F, Chapter 2270, Government Code, is  
13 amended by adding Section 2270.0254 to read as follows:

14 Sec. 2270.0254. ADMINISTRATIVE PENALTY. The Department of  
15 Public Safety may impose an administrative penalty in the same  
16 manner and using the same procedures as Subchapter R, Chapter 411,  
17 against a person who violates this chapter.

18 SECTION 15. Chapter 2274, Government Code, as added by  
19 Chapter 975 (S.B. 2116), Acts of the 87th Legislature, Regular  
20 Session, 2021, is amended by adding Section 2274.0104 to read as  
21 follows:

22 Sec. 2274.0104. ADMINISTRATIVE PENALTY. The Department of  
23 Public Safety may impose an administrative penalty in the same  
24 manner and using the same procedures as Subchapter R, Chapter 411,  
25 against a person who violates this chapter.

26 SECTION 16. Section 205.010(a), Local Government Code, is  
27 amended by adding Subdivision (1-a) to read as follows:

1           (1-a) "Local government" means a municipality,  
2 county, special district or authority, or any other political  
3 subdivision of this state.

4           SECTION 17. Section 205.010, Local Government Code, is  
5 amended by adding Subsections (c), (d), and (e) to read as follows:

6           (c) In addition to notifying the attorney general under  
7 Section 521.053, Business & Commerce Code, of a breach of system  
8 security, the local government shall report the breach to the Texas  
9 Homeland Security Division of the Department of Public Safety. The  
10 division shall notify the governor of a breach of system security  
11 reported to the division under this section.

12           (d) Not later than the 10th business day after the date of  
13 the eradication, closure, and recovery from a breach, a local  
14 government shall notify the Department of Information Resources,  
15 including the chief information security officer, of the details of  
16 the event and include in the notification an analysis of the cause  
17 of the event.

18           (e) The administrative head of a local government commits an  
19 offense if the person intentionally or knowingly fails to notify  
20 the Texas Homeland Security Division of the Department of Public  
21 Safety of a breach of system security as required by Subsection (c).  
22 An offense under this subsection is a Class C misdemeanor.

23           SECTION 18. (a) Section 421.021(a), Government Code, as  
24 amended by Chapters 93 (S.B. 686), 616 (S.B. 1393), and 1217 (S.B.  
25 1536), Acts of the 83rd Legislature, Regular Session, 2013, is  
26 repealed.

27           (b) Section 421.021(c), Government Code, is repealed.

1           SECTION 19. As soon as practicable after the Texas Homeland  
2 Security Division of the Department of Public Safety of the State of  
3 Texas is established, the division shall notify each state agency  
4 and local government of the requirements to notify the division of a  
5 breach of system security under Section 2054.1125, Government Code,  
6 as amended by this Act, and Section 205.010, Local Government Code,  
7 as amended by this Act, including the criminal penalties that may be  
8 imposed for failure to comply with those requirements.

9           SECTION 20. It is the intent of the 88th Legislature,  
10 Regular Session, 2023, that the amendments made by this Act be  
11 harmonized with another Act of the 88th Legislature, Regular  
12 Session, 2023, relating to nonsubstantive additions to and  
13 corrections in enacted codes.

14           SECTION 21. This Act takes effect September 1, 2023.