| **House Bill 3324**  Senate Amendments  Section-by-Section Analysis | | |
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| HOUSE VERSION | SENATE VERSION (CS) | CONFERENCE |
| 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 secretary of 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 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. | SECTION 2. Same as House version. |  |
| SECTION 3. Section 421.071, Government Code, is amended to read as follows. | SECTION 3. Same as House version. |  |
| No equivalent provision. | SECTION 4. The heading to Subchapter E, Chapter 421, Government Code, is amended to read as follows:  SUBCHAPTER E. TEXAS FUSION CENTER AND OTHER FUSION CENTERS OPERATING IN THIS STATE |  |
| SECTION 4. Section 421.082(b), Government Code, is amended to read as follows:  (b) The center's duties include:  (1) promotion of emergency preparedness;  (2) receipt and analysis of information, assessment of threats, and issuance of public warnings related to homeland security emergencies; [~~and~~]  (3) authorization and facilitation of cooperative efforts related to emergency response and recovery efforts in the event of a homeland security emergency; and  (4) making recommendations to the Department of Public Safety regarding the monitoring of fusion centers operating in this state and regarding the functions of the Texas Fusion Center Policy Council created under Section 421.083. | SECTION 5. Sections 421.082(a) and (b), Government Code, are amended to read as follows:  (a) The Texas Fusion Center [~~center~~] shall serve as the state's primary entity for the planning, coordination, and integration of government communications capabilities to help implement the governor's homeland security strategy and ensure an effective response in the event of a homeland security emergency.  (b) The center's duties include:  (1) promotion of emergency preparedness;  (2) receipt and analysis of information, assessment of threats, and issuance of public warnings related to homeland security emergencies; [~~and~~]  (3) authorization and facilitation of cooperative efforts related to emergency response and recovery efforts in the event of a homeland security emergency; and  (4) making recommendations to the Department of Public Safety regarding the monitoring of fusion centers operating in this state and regarding the functions of the Texas Fusion Center Policy Council created under Section 421.083. |  |
| SECTION 5. Subchapter E, Chapter 421, Government Code, is amended by adding Sections 421.083, 421.084, and 421.085 to read as follows:  Sec. 421.083. TEXAS FUSION CENTER POLICY COUNCIL. (a) The Department of Public Safety shall create the Texas Fusion Center Policy Council and the bylaws for the council to assist the department in monitoring fusion center activities in this state.  (b) The policy council is composed of one executive representative from each recognized fusion center operating in this state.  (c) The policy council shall:  (1) develop and disseminate strategies to:  (A) facilitate the implementation of applicable federal standards and programs on a statewide basis by each fusion center operating in this state;  (B) expand and enhance the statewide intelligence capacity to reduce the threat of terrorism and criminal enterprises; and  (C) continuously review critical issues pertaining to homeland security activities;  (2) establish a privacy advisory group, with at least one member who is a privacy advocate, to advise the policy council and to meet at the direction of the policy council; and  (3) recommend best practices for each fusion center operating in this state, including:  (A) best practices to ensure that the center adheres to state and federal laws designed to protect privacy and the other legal rights of individuals; and  (B) best practices for the smooth exchange of information among all fusion centers operating in this state.  Sec. 421.084. FUSION CENTERS OPERATING IN THIS STATE: RULES AND MONITORING. (a) After considering the recommendations of the Texas Fusion Center under Section 421.082(b)(4) and the Texas Fusion Center Policy Council under Section 421.083(c)(3), the Department of Public Safety shall adopt rules to govern the operations of fusion centers in this state, including guidelines to:  (1) establish a common concept of operations for any fusion center operating in this state, in order to provide clear baseline standards for each aspect of the center's activities;  (2) inform and define the monitoring of those activities by the Texas Fusion Center Policy Council; and  (3) ensure that any fusion center operating in this state adheres to state and federal laws designed to protect privacy and the other legal rights of individuals, including laws that provide clear standards for the treatment of intelligence and for the collection and storage of noncriminal information, personally identifiable information, and protected health information.  (b) The department may require that a fusion center audited under applicable department rules pay any costs incurred by the policy council in relation to the audit.  (c) A member of the policy council may not receive compensation but is entitled to reimbursement for the member's travel expenses as provided by Chapter 660 and the General Appropriations Act.  (d) A fusion center may not receive state grant money if the center adopts a rule, order, ordinance, or policy under which the center fails or refuses to comply with rules adopted by the Department of Public Safety under Subsection (a), beginning with the first state fiscal year occurring after the center adopts the rule, order, ordinance, or policy. | SECTION 6. Subchapter E, Chapter 421, Government Code, is amended by adding Sections 421.083, 421.084, 421.085, and 421.086 to read as follows:  Sec. 421.083. TEXAS FUSION CENTER POLICY COUNCIL. (a) The Department of Public Safety shall create the Texas Fusion Center Policy Council and the bylaws for the council to assist the department in monitoring fusion center activities in this state.  (b) The policy council is composed of one executive representative from each recognized fusion center operating in this state.  (c) The policy council shall:  (1) develop and disseminate strategies to:  (A) facilitate the implementation of applicable federal standards and programs on a statewide basis by each fusion center operating in this state;  (B) expand and enhance the statewide intelligence capacity to reduce the threat of terrorism and criminal enterprises; and  (C) continuously review critical issues pertaining to homeland security activities;  (2) establish a privacy advisory group, with at least one member who is a privacy advocate, to advise the policy council and to meet at the direction of the policy council; and  (3) recommend best practices for each fusion center operating in this state, including:  (A) best practices to ensure that the center adheres to 28 C.F.R. Part 23 and any other federal or state law designed to protect privacy and the other legal rights of individuals; and  (B) best practices for the smooth exchange of information among all fusion centers operating in this state.  Sec. 421.084. FUSION CENTERS OPERATING IN THIS STATE: RULES AND MONITORING. (a) After considering the recommendations of the Texas Fusion Center under Section 421.082(b)(4) and the Texas Fusion Center Policy Council under Section 421.083(c)(3), the Department of Public Safety shall adopt rules to govern the operations of fusion centers in this state, including guidelines to:  (1) for any fusion center operating in this state, establish a common concept of operations to provide clear baseline standards for each aspect of the center's activities;  (2) inform and define the monitoring of those activities by the Texas Fusion Center Policy Council; and  (3) ensure that any fusion center operating in this state adheres to federal and state laws designed to protect privacy and the other legal rights of individuals, including 28 C.F.R. Part 23 and any other law that provides clear standards for the treatment of intelligence or for the collection and storage of noncriminal information, personally identifiable information, or protected health information.  (b) The Department of Public Safety may require that a fusion center audited under applicable department rules pay any costs incurred by the policy council in relation to the audit.  (c) A member of the policy council may not receive compensation but is entitled to reimbursement for the member's travel expenses as provided by Chapter 660 and the General Appropriations Act.  (d) A fusion center may not receive state grant money if the center adopts a rule, order, ordinance, or policy under which the center fails or refuses to comply with rules adopted by the Department of Public Safety under Subsection (a), beginning with the first state fiscal year occurring after the center adopts the rule, order, ordinance, or policy. |  |
| No equivalent provision. | Sec. 421.085. PRIVACY POLICY REQUIRED. (a) Each fusion center operating in this state shall adopt a privacy policy providing at a minimum that, with respect to an individual or organization, the fusion center:  (1) will not seek, collect, or retain information that is based solely on any of the following factors, as applicable to that individual or organization:  (A) religious, political, or social views or activities;  (B) participation in a particular organization or event; or  (C) race, ethnicity, citizenship, place of origin, age, disability, gender, or sexual orientation; and  (2) will take steps to ensure that any agency that submits information to the fusion center does not submit information based solely on a factor described by Subdivision (1).  (b) In a criminal investigation, a factor described by Subsection (a)(1) may not alone give rise to reasonable suspicion. However, a factor described by Subsection (a)(1) may be used in connection with a specific description of a suspect in the investigation. |  |
| Sec. 421.085. REPORT. The Texas Fusion Center Policy Council annually shall submit to the governor and to each house of the legislature a report that contains, with respect to the preceding year:  (1) the council's progress in developing and coordinating the statewide fusion effort and intelligence network described by the governor's homeland security strategy;  (2) the progress made by fusion centers operating in this state in meeting the fusion center guidelines developed under the Department of Homeland Security State, Local, and Regional Fusion Center Initiative established under 6 U.S.C. Section 124h; and  (3) a summary of fusion center audits or reviews conducted under applicable rules adopted by the Department of Public Safety. | Sec. 421.086. REPORT. The Texas Fusion Center Policy Council annually shall submit to the governor and to each house of the legislature a report that contains, with respect to the preceding year:  (1) the council's progress in developing and coordinating the statewide fusion effort and intelligence network described by the governor's homeland security strategy;  (2) the progress made by fusion centers operating in this state in meeting the fusion center guidelines developed under the Department of Homeland Security State, Local, and Regional Fusion Center Initiative established under 6 U.S.C. Section 124h; and  (3) a summary of fusion center audits or reviews conducted under applicable rules adopted by the Department of Public Safety. |  |
| SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011. | SECTION 7. Same as House version. |  |