

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4176

BY DELEGATES MILLER, HANSHAW (MR. SPEAKER),
MILEY, SHOTT, D. KELLY, KESSINGER, CANESTRARO AND
LOVEJOY

[Passed March 7, 2020; in effect ninety days from
passage.]

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OFFICE WEST VIRGINIA
LEGISLATIVE SERVICE

HB 4176

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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FILED

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §15A-9-1, §15A-9-2, §15A-9-3, §15A-9-4, §15A-9-5, §15A-9-6, §15A-9-7 and
3 §15A-9-8, all relating to establishing and delineating the powers, duties, and
4 responsibilities of the West Virginia Fusion Center; requiring Governor to establish West
5 Virginia Fusion Center and defining its purpose; providing that Department of Homeland
6 Security will operate fusion center and provide legal counsel; prohibiting the Fusion Center
7 from gathering information or intelligence information for a political purpose, except for the
8 limited purposes of certain dignitary visits and to insure fair elections; providing Fusion
9 Center or its officers, directors, agents, or employees shall not engage in prohibited non-
10 law enforcement intelligence gathering activities on citizens of the United States; providing
11 Fusion Center shall be housed in secure facilities; providing Fusion Center shall
12 collaborate to fulfill duties of State Resiliency Office; providing for operations of Fusion
13 Center; providing limitations upon when the Fusion Center may cooperate, with any
14 federal agency, or a contractor for any federal agency; providing operations of the West
15 Virginia Fusion Center shall be overseen by the cabinet secretary and deputy cabinet
16 secretary of the West Virginia Department of Homeland Security; providing cabinet
17 secretary and deputy cabinet secretary shall either have a current, valid federal security
18 clearance at the appropriate level; providing cabinet secretary and deputy cabinet
19 secretary may adopt policies and procedures for the operation of the West Virginia Fusion
20 Center; establishing positions of fusion center director and deputy director; creating joint
21 select oversight committee and establishing committee membership and powers;
22 mandating entities participating in fusion center enter into memorandum of understanding
23 with center and setting out minimum requirements of memorandum; limiting access to
24 fusion center of certain persons; making certain information in possession of center
25 confidential and not subject to disclosure; providing exceptions to confidentiality of
26 information; establishing immunity from subpoena for individuals possessing criminal

27 intelligence information gained from access to fusion center information; setting criminal
28 penalties for knowing dissemination of fusion center information; providing whistleblower
29 protections; prohibiting certain conduct by fusion center contractors and employees;
30 defining terms; making persons providing or receiving certain information to or from center
31 immune from civil liability and exceptions thereto; allowing participating agencies to share
32 in costs of operating center; creating West Virginia Fusion Center Fund, and delineating
33 uses and purposes of such fund; and authorizing Commissioner of Department of Motor
34 Vehicles to issue license plates for state-owned fusion center vehicles.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. WEST VIRGINIA FUSION CENTER.

§15A-9-1. West Virginia Fusion Center Established.

1 (a) The Governor shall establish, organize, equip, staff, and maintain a multiagency
2 information fusion center ("Fusion Center") to receive, analyze, and disseminate all hazard, crime,
3 and threat information. The Department of Homeland Security shall operate the facility, as
4 directed by the Governor, with oversight auditing and accountability to the select committee of the
5 Legislature as set forth herein, and in collaboration among federal, state, and local agencies, as
6 well as private sector persons, organizations, entities, or agencies, including, but not limited to,
7 those with the primary purposes of homeland security, counter-terrorism, public safety, public
8 protection, and critical infrastructure: *Provided*, That the Fusion Center shall not knowingly
9 participate in activity, or knowingly cooperate, with any federal agency, or a contractor for any
10 federal agency, when that participation or cooperation involves illegal or improper actions.
11 Further, the Fusion Center shall not allow a federal agency or contractor for a federal agency to
12 work inside the Fusion Center when it knows or has reason to know that such federal agency or
13 federal contractor is presently engaged or intends to engage in unlawful intelligence-gathering
14 activity against a citizen of West Virginia.

15 (b) The Fusion Center shall collect, integrate, analyze, disseminate, and maintain such
16 information to support local, state, and federal law-enforcement agencies, other governmental
17 agencies, and private persons, organizations, entities, or agencies in detecting, preventing,
18 investigating, preparing for, responding to, and recovering from any possible or actual criminal or
19 terrorist activity, as well as any hazard, including to the state's critical infrastructure, in compliance
20 with applicable state and federal laws and regulations, including 28 CFR 23: *Provided*, That as
21 used in this article, "terrorism" shall mean only foreign or international terrorist groups or
22 individuals, or domestic groups or individuals involved in transnational or domestic terrorism as
23 defined in 6 U.S.C. §485: *Provided, however*, That under no circumstance shall the Fusion Center
24 or its officers, directors, agents, or employees engage in, or be ordered or directed to engage in
25 prohibited non-law enforcement intelligence gathering activities on citizens of the United States
26 as set forth in any federal or state law or in contravention of the Constitution of the United States,
27 nor shall the Fusion Center engage in any information or intelligence gathering for any political
28 purpose nor be solicited for, or cooperate in, any investigation of a public official or candidate for
29 elected office, unless reasonable grounds exist to suspect the subject of the investigation is, or
30 may be, involved in criminal conduct. This provision shall not prohibit the Fusion Center from
31 participating in matters dealing with election fraud, election tampering, or other issues designed
32 to provide the citizens of the state with tamper-free elections, and shall not restrict the Fusion
33 Center from assisting in security matters involving political or dignitary visits to or within the State
34 of West Virginia.

35 (c) The West Virginia Fusion Center shall be housed within secure facilities in order to
36 access sensitive information, as permitted by state and federal law. Within the secure facilities,
37 the Fusion Center shall house a Homeland Secure Data Network (HSDN) in order to access
38 classified information as permitted by state and federal law and ensure that appropriate security
39 measures are in place for: (1) the secure facilities; (2) data collected or stored at the secure
40 facilities; and (3) personnel working at the secure facilities.

41 (d) The West Virginia Fusion Center shall do all acts necessary and proper to carry out
42 the powers granted to the board of the State Resiliency Office.

§15A-9-2. Operation of center.

1 (a) The West Virginia Department of Homeland Security shall operate the West Virginia
2 Fusion Center under the direction of the Governor, with oversight auditing and accountability to
3 the select committee of the Legislature as set forth herein, and shall cooperate with the United
4 States Department of Homeland Security, local, county, state, or federal government agencies,
5 and private organizations: *Provided*, That the Fusion Center shall not knowingly participate in
6 activity, or knowingly cooperate, with any federal agency, or a contractor for any federal agency,
7 when that participation or cooperation involves illegal or improper actions. Further, the Fusion
8 Center shall not allow a federal agency or contractor for a federal agency to work inside the Fusion
9 Center when it knows or has reason to know that such federal agency or federal contractor is
10 presently engaged or intends to engage in unlawful intelligence-gathering activity against a citizen
11 of West Virginia: *Provided, however*, That all Fusion Center operations shall be subject to
12 applicable state and federal laws and regulations, including, but not limited to, 28 CFR Part 23,
13 and shall at all times strictly abide by all restrictions and prohibitions against conducting non-law
14 enforcement intelligence operations against U.S. citizens as set forth in any federal or state law
15 or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C.
16 §3036(d).

17 (b) The West Virginia Fusion Center shall: (1) Be the primary clearinghouse for the State
18 of West Virginia for the collection, analysis, and proper distribution of information and actionable
19 intelligence as defined in this section; (2) generate intelligence analyses critical for homeland
20 security policy and relevant threat warning in order to protect life, liberty, and property in West
21 Virginia; (3) promote and improve intelligence sharing among public safety and public service
22 agencies at the federal, state, and local levels, and with critical infrastructure and key resource
23 entities within the private sector subject to all restrictions and prohibitions recited in this article;

24 (4) receive and integrate intelligence and information related to terrorism and other homeland
25 security threats; (5) collect, analyze, produce, disseminate, and maintain such intelligence and
26 information, as allowed by law, to support local, state, and federal law enforcement agencies,
27 other governmental agencies, and private organizations in: preventing, preparing for, responding
28 to, and recovering from any possible or actual terrorist attack or other homeland security threat;
29 and (6) maximize intelligence and information sharing in strict accordance with all applicable state
30 and federal laws, restrictions, and prohibitions: *Provided*, That the Fusion Center shall not
31 knowingly participate in activity, or knowingly cooperate, with any federal agency, or a contractor
32 for any federal agency, when that participation or cooperation involves illegal or improper actions.
33 Further, the Fusion Center shall not allow a federal agency or contractor for a federal agency to
34 work inside the Fusion Center when it knows or has reason to know that such federal agency or
35 federal contractor is presently engaged or intends to engage in unlawful intelligence-gathering
36 activity against a citizen of West Virginia.

37 (c) The Governor shall provide facilities, budget, and administrative support for the West
38 Virginia Fusion Center and its employees and participants. The cabinet secretary shall serve as
39 security manager for the West Virginia Fusion Center.

40 (d) Private sector persons, organizations, entities, or agencies participating in the West
41 Virginia Fusion Center shall not be considered governmental entities, nor shall employees or
42 agents of private sector persons, organizations, entities, or agencies assigned to the West Virginia
43 Fusion Center be considered state employees; however, private sector entities and their
44 employees or agents are subject to the same confidentiality requirements and held to the same
45 standards as an employee of the West Virginia Fusion Center, including, but not limited to, any
46 and all restrictions and prohibitions against conducting non-law enforcement intelligence
47 operations against U.S. citizens as set forth in federal or state law or in contravention of the
48 Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d): *Provided*, That
49 the Fusion Center shall not knowingly participate in any activity, or knowingly cooperate, with any

50 federal agency, or a contractor for or any person or entity utilizing or collaborating with any federal
51 agency, when that participation or cooperation involves illegal or improper actions: *Provided,*
52 *however,* that the Fusion Center shall not allow a federal agency or contractor for a federal agency
53 to work inside the Fusion Center when it knows or has reason to know that such federal agency
54 or federal contractor is presently engaged or intends to engage in unlawful intelligence-gathering
55 activity against a citizen of West Virginia.

56 (e) The operations of the West Virginia Fusion Center shall be overseen by the cabinet
57 secretary and deputy cabinet secretary of the West Virginia Department of Homeland Security,
58 with oversight auditing and accountability to the select committee of the Legislature as set forth
59 herein.

60 (f) The cabinet secretary and deputy cabinet secretary shall either have a current, valid
61 federal security clearance at the appropriate level, and training and certifications commensurate
62 with the position, or be eligible for that clearance, and be in the process of obtaining the
63 appropriate clearance.

64 (g) The cabinet secretary and deputy cabinet secretary may adopt policies and
65 procedures for the operation of the West Virginia Fusion Center. The cabinet secretary and deputy
66 cabinet secretary may adopt rules and regulations as may be necessary to carry out the provisions
67 of this act, including rules and regulations concerning the operations of the West Virginia Fusion
68 Center: *Provided,* That all policies, procedures, rules, and regulations shall be subject to any and
69 all restrictions and prohibitions against conducting non-law enforcement intelligence operations
70 against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of
71 the United States, including but not limited to, 50 U.S.C. §3036(d).

72 (h) Subject to appropriations, the West Virginia Fusion Center shall have the following
73 employees, all in the unclassified service of the civil service act:

74 (1) A director, who shall be appointed by and serve at the pleasure of the cabinet
75 secretary. The director shall either have a current, valid federal security clearance at the

76 appropriate level, and training and certifications commensurate with the position, or be eligible for
77 that clearance, and be in the process of obtaining the appropriate clearance, and shall:

78 (A) Be responsible for all operations of the West Virginia Fusion Center and shall report
79 to the cabinet secretary or deputy cabinet secretary;

80 (B) Be responsible for:

81 (i) Facilitating and implementing applicable federal standards and programs by the West
82 Virginia Fusion Center;

83 (ii) Ensuring compliance with all applicable laws and federal requirements, including, but
84 not limited to, any and all restrictions and prohibitions against conducting non-law enforcement
85 intelligence operations against U.S. citizens as set forth in federal or state law or in contravention
86 of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d);

87 (iii) Maintaining proper separation between military and civilian capacities;

88 (iv) Providing support, as needed, to the cabinet secretary and deputy cabinet secretary;

89 and

90 (v) Other duties and responsibilities as may be assigned by the cabinet secretary and
91 deputy cabinet secretary, subject to all restrictions and prohibitions described in this article.

92 (5) A deputy director, who shall be appointed by and serve at the pleasure of the director.

93 The deputy director shall either have a current, valid federal security clearance at the appropriate
94 level, and training and certifications commensurate with the position, or be eligible for that
95 clearance, and be in the process of obtaining the appropriate clearance, and shall be responsible
96 for assisting the director in: (A) facilitating and implementing applicable federal standards and
97 programs by the West Virginia Fusion Center; (B) ensuring compliance with all applicable laws
98 and federal requirements; (C) maintaining proper separation between military and civilian
99 capacities; (D) providing support, as needed, to the cabinet secretary and deputy cabinet

100 secretary; and (E) other duties and responsibilities as may be assigned by the Fusion Center
101 director.

§15A-9-3. Joint Oversight Committee.

1 (a) The Speaker of the House of Delegates and President of the Senate shall establish a
2 select committee which shall have oversight of the information collected by the West Virginia
3 Fusion Center to ensure the proper collection, dissemination, storage, and destruction of
4 information or intelligence. The committee shall be composed of: (1) The Speaker of the House
5 of Delegates and four members of the House of Delegates, to be appointed by the Speaker of the
6 House of Delegates, no more than two of whom shall be appointed from the same political party;
7 and (2) the President of the Senate and four members of the Senate, to be appointed by the
8 President of the Senate, no more than two of whom shall be from the same political party; and
9 counsel and staff to the Speaker and the Senate President: *Provided*, That in the event the
10 membership of a political party is less than 15 percent in the House of Delegates or Senate, then
11 the membership of that political party from the legislative house with less than 15 percent
12 membership may be one from that house. The committee shall be chaired by the President of the
13 Senate and the Speaker of the House of Delegates. All members appointed to the select
14 committee by the select committee chairs serve until their successors are appointed as provided
15 in this section. The select committee members, counsel, and staff must have the appropriate
16 security clearance in order to obtain information that is classified and shall be subject to the same
17 rules, regulations, and laws as the employees of the West Virginia Fusion Center for safeguarding
18 both classified and law enforcement sensitive information or intelligence. These select committee
19 members, counsel, and staff shall be advised of the restrictions and protocol for handling such
20 information or intelligence and shall sign a statement of understanding as well as a confidentiality
21 agreement.

22 (b) Members of the select committee may enter and inspect the West Virginia Fusion
23 Center at any time staff is present with select committee counsel and staff, with or without notice
24 to the West Virginia Fusion Center.

25 (c) Meetings of the select committee shall be confidential and the information and
26 materials, in any medium, including hard copy and electronic, coming to the attention of or placed
27 in the custody of the Select Committee shall not be subject to the West Virginia Freedom of
28 Information Act as set forth in §29B-1-1 *et seq.* of this code.

29 (d) The select committee may conduct proceedings in a confidential executive session for
30 the purpose of conducting business, establishing policy, reviewing investigations, and
31 interrogating a witness or witnesses.

32 (e) All witnesses appearing before the select committee shall testify under oath or
33 affirmation, and any member of the select committee or its counsel may administer oaths or
34 affirmations to such witnesses. To compel witnesses to attend a hearing or produce any books,
35 records, documents, or papers, or any other tangible thing except where the records, documents,
36 data, or items are protected from disclosure by privilege recognized by state or federal courts, the
37 select committee may issue subpoenas, signed by one of the co-chairs: *Provided*, That the select
38 committee may specifically authorize or delegate the power to any member of the select
39 committee to sign subpoenas on its behalf. The subpoenas shall be served by any person
40 authorized by law to serve and execute legal process, and service shall be made without charge.
41 Witnesses subpoenaed to attend hearings shall be allowed the same mileage and per diem as is
42 allowed witnesses before any petit jury in this state.

43 (f) If any person subpoenaed to appear at any hearing shall refuse to appear or to answer
44 inquiries there propounded, or shall fail or refuse to produce books, records, documents, papers,
45 or any other tangible thing within his or her control when the same are demanded, the select
46 committee shall report the facts to the circuit court of Kanawha County or any other court of
47 competent jurisdiction and that court may compel obedience to the subpoena as though the

48 subpoena had been issued by that court in the first instance: *Provided*, That prior to seeking circuit
49 court relief, the select committee may, in its discretion, first demand the Secretary of Homeland
50 Security or the director of the West Virginia Fusion Center under whom an employee has failed
51 to appear or which has failed to produce requested or subpoenaed material to appear before the
52 select committee and address the basis for the failure to comply and whether compliance will be
53 forthcoming.

54 (g) The select committee may direct the West Virginia Fusion Center to send its budgetary
55 accounting to the State Auditor: *Provided*, That if budgetary expenditures are classified, or
56 security or law enforcement sensitive such that disclosure would compromise an investigation,
57 those entry descriptions, but not the expenditure amounts, may be redacted from the West
58 Virginia Fusion Center accounting provided to the State Auditor: *Provided, however*, That the
59 State Auditor shall bring any accounting issues of concern to the attention of the select committee,
60 upon which the select committee shall subpoena the West Virginia Fusion Center for unredacted
61 copies of the accounting items to be presented for explanation and justification of the necessity
62 and legality of the concerns raised by the State Auditor. The select committee may take whatever
63 action it deems necessary, if any, after review and analysis of the subpoenaed unredacted
64 materials.

§15A-9-4. Memoranda of understanding required.

1 (a) Each governmental and nongovernmental entity participating in the West Virginia
2 Fusion Center shall enter a memorandum of understanding between the West Virginia Fusion
3 Center and the participating entity. The memorandum of understanding shall at a minimum:

4 (1) Provide a framework and working mechanism for the organization of the West Virginia
5 Fusion Center to address issues that are common to city, county, state, and federal governments'
6 obligations to protect the safety and well-being of citizens and to enhance the success of the
7 Fusion Center in responding to criminal, terrorist, and other threats to public safety through the
8 achievement of coordination and cooperation;

9 (2) Clarify the working relationships between the governmental and nongovernmental
10 entities and use limitations of shared information; and

11 (3) Outline the intent of the parties regarding the information provided by the governmental
12 and non- governmental entities to the West Virginia Fusion Center.

13 (b) Nothing in any agreement shall obligate any nongovernmental entity to provide
14 information nor establish any duty for any nongovernmental entity to assume any police or law
15 enforcement responsibilities.

16 (c) Failure of any governmental or nongovernmental entity to abide by the restrictions and
17 use limitations set forth by the West Virginia Fusion Center may result in the suspension or
18 termination of use privileges, discipline sanctions imposed by the user's employing agency, or
19 criminal prosecution.

20 (d) Any and all interagency memoranda of understanding and participating public or
21 private persons, organizations, entities, or agencies described in this section shall be subject to
22 all restrictions and prohibitions described in this section.

§15A-9-5. Confidentiality and immunity from service of process; penalties.

1 (a) Papers, records, documents, reports, materials, databases, or other evidence or
2 information relative to criminal intelligence, any terrorism investigation, threat assessment, or
3 information on infrastructure which if released would compromise the public safety in the
4 possession of the West Virginia Fusion Center shall be confidential and shall not be subject to
5 the West Virginia Freedom of Information Act (§29B-1-1 *et seq.* of this code): *Provided*, That this
6 exemption from the West Virginia Freedom of Information Act may be lifted in the event a court
7 determines in a state or federal whistleblower action that unlawful or unauthorized activity has
8 taken place, and shall in no way restrict the Legislature's select oversight committee from access
9 to all such information. Every five years, the West Virginia Fusion Center shall conduct a review
10 of information contained in any database maintained by the West Virginia Fusion Center. Data
11 that has been determined not to have a nexus to criminal or terrorist activity shall be removed

12 from such database. A reasonable suspicion standard shall be applied when determining whether
13 or not information has a nexus to terrorist activity for non-U.S. citizens, but a probable cause
14 standard shall apply for U.S. citizens: *Provided, however,* That all such determinations shall be
15 reported to the Legislature's select oversight committee at regularly scheduled oversight audit
16 and committee meetings.

17 (b) No person having access to information maintained by the West Virginia Fusion Center
18 shall be subject to subpoena in a civil action in any court of the state to testify concerning a matter
19 of which he has knowledge pursuant to his access to criminal intelligence information maintained
20 by the West Virginia Fusion Center.

21 (c) No person or agency receiving information from the West Virginia Fusion Center shall
22 release or disseminate that information without prior authorization from the West Virginia Fusion
23 Center.

24 (d) Intelligence data in the possession of a criminal or juvenile justice agency, state or
25 federal regulatory agency, or peace officer, or disseminated by such agency or peace officer, are
26 confidential records under §29B-1-1 *et seq.* of this code.

27 (e) Any person who knowingly disseminates information in violation of this section is guilty
28 of a misdemeanor and, upon conviction thereof, shall be fined not less than \$200 nor more than
29 \$1,000, or be confined in jail for not more than 20 days, or both fined and confined. If such
30 unauthorized dissemination results in death or serious bodily injury to another person, such
31 person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional
32 facility not less than one nor more than five years: *Provided,* That all state and federal
33 Whistleblower Protection Act protections shall apply to any person whose disclosures are found
34 to have been made to report or protect against violation or attempted violation of any and all
35 restrictions and prohibitions against conducting non-law enforcement intelligence operations
36 against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of
37 the United States, including, but not limited to, 50 U.S.C. §3036(d).

38 (f) Any person, being an officer or employee of the United States, the State of West Virginia
39 or of any department, agency, or political subdivision thereof, or any person from the private sector
40 or industry assigned to or working with the West Virginia Fusion Center in any capacity, who
41 knowingly publishes, divulges, discloses, or makes known in any manner, or to any extent not
42 authorized by law, any critical infrastructure or national intelligence information protected from
43 disclosure by this section coming to him or her in the course of his or her employment, affiliation,
44 or official duties with the West Virginia Fusion Center, or by reason of any examination or
45 investigation made by, return, report, or record made to or filed with, such department or agency,
46 officer or employee thereof, shall be guilty of a felony and, upon conviction, be imprisoned in a
47 state correctional facility for not less than one year, and shall be removed from office or
48 employment and affiliation with the West Virginia Fusion Center: *Provided*, That all state and
49 federal Whistleblower Protection Act protections shall apply to any person whose disclosures are
50 found to have been made to report or protect against violation or attempted violation of any and
51 all restrictions and prohibitions against conducting non-law enforcement intelligence operations
52 against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of
53 the United States, including, but not limited to, 50 U.S.C. §3036(d).

54 (g) The West Virginia Department of Homeland Security shall provide legal counsel to the
55 West Virginia Fusion Center to serve as privacy and civil liberties counsel to the West Virginia
56 Fusion Center. Such attorney shall advise the West Virginia Fusion Center director and its deputy
57 director on all matters necessary to ensure compliance with all applicable federal and state
58 privacy or civil liberties laws, obligations, restrictions, and prohibitions as set forth herein.

59 (h) For purposes of this article:

60 (1) "Criminal intelligence information" means data or information that has been evaluated
61 and determined to be relevant to the identification and criminal activity of individuals or
62 organizations that are reasonably suspected of involvement in criminal activity.

63 (2) "Critical Infrastructure" means systems and assets as defined in 42 U.S.C. § 5195c(e).

64 (3) "National Intelligence" means data or information determined to meet the definition
65 stated in 50 U.S.C. §3003 (5): *Provided*, That Fusion Center activities and operations relating to
66 National Intelligence shall at all times strictly abide by all restrictions and prohibitions against
67 conducting non-law enforcement intelligence operations against U.S. citizens as set forth in
68 federal or state law or in contravention of the Constitution of the United States, including, but not
69 limited to, 50 U.S.C. §3036(d).

§15A-9-6. Receipt of information; immunity from liability.

1 (a) No cause of action for defamation, invasion of privacy, or negligence shall arise against
2 any person by reason of that person's furnishing information concerning any suspected,
3 anticipated, or completed criminal violation or terrorist activity when the information is provided to
4 or received from the West Virginia Fusion Center or any federal, state, or local governmental or
5 private sector entity established for the purpose of detecting and preventing acts of criminal
6 activity or terrorism: *Provided*, That with regard to any Fusion Center intelligence or information
7 gathering activity or operation against a U.S. Citizen related to alleged terrorism or violation of a
8 law, such allegation must be vetted and confirmed by procedures substantially in compliance with
9 those set forth in laws, rules, and regulations developed in accordance with 50 U.S.C. §3036(d).

10 (b) No person shall be subject to such cause of action for cooperating with or furnishing
11 evidence or information regarding any suspected criminal violation to the West Virginia Fusion
12 Center.

13 (c) This section shall not provide immunity for those disclosing or furnishing false
14 information with malice or willful intent to injure any person, nor for any person who does not
15 comply with the procedures set forth in §15A-9-6(a) of this code.

16 (d) This section does not in any way abrogate or modify common law or statutory privilege
17 or immunity heretofore enjoyed by any person or entity.

§15A-9-7. Costs.

1 (a) The director, with approval of the cabinet secretary or deputy cabinet secretary, may
2 enter into agreements with participating agencies or organizations, whether public or private, for

3 their participation in the West Virginia Fusion Center. Such agreements: (1) Shall define the duties
4 and responsibilities of each participating agency or organization; (2) may provide for payment by
5 the participating agency or organization of a reasonable share of the cost to establish, maintain,
6 and operate the West Virginia Fusion Center; and (3) shall require compliance with all
7 requirements, restrictions, and prohibitions set forth in this article.

8 (b)(1) The West Virginia Fusion Center, with approval of the cabinet secretary or deputy
9 cabinet secretary, may accept any gift, grant, payment, moneys, or assets seized by forfeiture as
10 a result of collaborative efforts or contribution from any source, public or private, for the purpose
11 of paying the costs to establish, maintain, or operate the West Virginia Fusion Center. Such gift,
12 grant, payment, moneys, or assets seized by forfeiture as a result of collaborative works or
13 contribution may be in the form of services, equipment, supplies, materials, or funds. All amounts
14 received under this section shall be remitted to the State Treasurer in accordance with chapter
15 12 of this code, and the amendments thereto. Upon receipt of each such remittance, the State
16 Treasurer shall deposit the entire amount in the State Treasury to the credit of the West Virginia
17 Fusion Center Fund, that is hereby created in the State Treasury and shall be administered by
18 the West Virginia Department of Homeland Security in accordance with this article and subject to
19 regular auditing and oversight by the Legislature's select oversight committee.

20 (2) Moneys in the West Virginia Fusion Center Fund may be used by the director to pay
21 any costs associated with establishing, maintaining, or operating the West Virginia Fusion Center.
22 The director of the West Virginia Fusion Center Fund shall develop policy and procedures for
23 purchasing, and expenditures shall be made in accordance with vouchers approved by the
24 director or the director's designee. Any gift, grant, payment, moneys, or any assets seized by
25 forfeiture as a result of collaborative efforts, or contribution in any form other than funds may be
26 accepted by the director, with approval of the cabinet secretary, and utilized and expended in any
27 manner authorized by law to establish, maintain, or operate the West Virginia Fusion Center:
28 *Provided*, That all moneys used by the director shall be subject to all restrictions and prohibitions

29 set forth in this article, and also to regular auditing and oversight by the Legislature's select
30 oversight committee.

31 (3) The moneys credited to the fund created in subsection (b) of this section shall be used
32 for the purposes set forth in this section and for no other governmental purposes. It is the intent
33 of the Legislature that the moneys deposited in this fund shall remain intact and inviolate for the
34 purposes set forth in this act.

§15A-9-8. Registration plates to official vehicles used in agency activities.

1 Notwithstanding any provision of this code to the contrary, the Commissioner of the
2 Division of Motor Vehicles is authorized to issue Class A license plates to authorized state-owned
3 vehicles operated by the West Virginia Fusion Center when the director signs a written affidavit
4 stating that the vehicle or vehicles for which the plates are being requested will be used by the
5 West Virginia Fusion Center in fulfilling its mission.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Noon Caputo
.....
Chairman, House Committee

Mark Raymond
.....
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Steve Harris
.....
Clerk of the House of Delegates

Joe Linn
.....
Clerk of the Senate

Greg Henshaw
.....
Speaker of the House of Delegates

Walter B. Conner
.....
President of the Senate

FILED
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OFFICE ASST. ATTORNEY
GENERAL
SECRETARY OF STATE

The within *is* *approved* this the *25th*
day of *March* 2020.

James Perdue
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 19 2020

Time 1:15 pm