



House of Representatives

General Assembly

File No. 651

January Session, 2007

Substitute House Bill No. 7390

House of Representatives, April 30, 2007

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING OVERSIGHT OF INTELLIGENCE GATHERING BY LAW ENFORCEMENT AGENCIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2007*) (a) For the purposes of
2 this section:

3 (1) "Public agency" means public agency as defined in section 1-200
4 of the general statutes; and

5 (2) "Public official" means public official as defined in section 1-79 of
6 the general statutes, any elected or appointed municipal official, a
7 judge of any court either elected or appointed and a senator or
8 representative in Congress.

9 (b) A law enforcement agency may collect and maintain criminal
10 intelligence information concerning individuals and organizations for
11 the purposes of (1) ensuring the safety and security of public officials,
12 and (2) preventing the disturbance or disruption of, or the interference

13 with, the performance by a public official of his or her official
14 functions, powers or duties or with the meetings of a public agency.

15 (c) A law enforcement agency may collect and maintain criminal
16 intelligence information concerning an individual or organization
17 pursuant to subsection (b) of this section if:

18 (1) Such agency has an articulable suspicion that such individual or
19 organization is engaged in or will engage in criminal conduct or
20 activity directed toward a public official or with respect to the
21 performance by a public official of his or her official functions, powers
22 or duties or with respect to the meetings of a public agency;

23 (2) Such individual has been convicted of an offense involving the
24 use, attempted use or threatened use of physical force against another
25 person;

26 (3) Such individual has been convicted of threatening, harassing or
27 stalking a public official, violating a restraining or protective order
28 involving a public official or committing criminal trespass in a
29 building or other premises where a public official resides or frequents;
30 or

31 (4) Such individual has been convicted of an offense involving the
32 disturbance or disruption of, or interference with, the performance by
33 a public official of his or her official functions, powers or duties or with
34 the meetings of a public agency.

35 (d) A law enforcement agency may collect and maintain criminal
36 intelligence information concerning an individual or organization
37 pursuant to subsection (b) of this section for reasons other than those
38 specified in subsection (c) of this section whenever such agency deems
39 it appropriate for the purposes set forth in subsection (b) of this
40 section.

41 (e) A law enforcement agency shall not collect or maintain criminal
42 intelligence information about the political, religious or social views,
43 associations or activities of any individual or organization unless such

44 information directly relates to criminal conduct or activity and there is
45 an articulable suspicion that the subject of the information is engaged
46 in or will engage in criminal conduct or activity.

47 (f) Whenever a law enforcement agency briefs its officers concerning
48 the safety and security of public officials or preventing the disturbance
49 or disruption of, or the interference with, the performance by a public
50 official of his or her official functions, powers or duties or with the
51 meeting of a public agency, and disseminates information about
52 individuals or organizations that it has collected under this section, the
53 agency shall include in such briefing an explanation of statutory and
54 constitutional rights that citizens have at such public events including,
55 but not limited to, freedom of speech, freedom from unreasonable
56 searches and seizures, freedom from arrest, detention or punishment
57 except where clearly warranted by law, and the right to peaceably
58 assemble and petition their government for a redress of grievances.

59 (g) Not later than January fifteenth of each year, each law
60 enforcement agency that has collected and maintained criminal
61 intelligence information concerning an individual pursuant to
62 subsection (d) of this section in the preceding year shall report to the
63 Commissioner of Public Safety the information required by this
64 subsection with respect to such individual. The Commissioner of
65 Public Safety shall, based upon the reports filed by each law
66 enforcement agency and not later than January thirty-first of each year,
67 submit a report, in accordance with the provisions of section 11-4a of
68 the general statutes, to the joint standing committee of the General
69 Assembly having cognizance of matters relating to criminal law and
70 procedure concerning the collection and maintenance of criminal
71 intelligence information concerning individuals pursuant to subsection
72 (d) of this section in the preceding calendar year. The report shall
73 include the following information: (1) The reasons the agency collected
74 and maintained criminal intelligence information with respect to such
75 individual; (2) the criminal activity the agency believed the individual
76 might engage in; (3) whether the individual was investigated, detained
77 or arrested, and the facts and circumstances of any such investigation,

78 detention or arrest; and (4) the status of any criminal prosecution
79 resulting from the arrest of such individual.

80 (h) Nothing in this section shall be construed to prevent the receipt
81 by a law enforcement agency of a tip concerning actual or suspected
82 criminal conduct or activity and the investigation thereof by such
83 agency.

84 (i) Nothing in this section shall be construed to prevent or limit a
85 law enforcement agency collecting and maintaining criminal
86 intelligence information for purposes other than those set forth in
87 subsection (b) of this section.

88 Sec. 2. Section 1-215 of the general statutes is repealed and the
89 following is substituted in lieu thereof (*Effective October 1, 2007*):

90 (a) Notwithstanding any provision of the general statutes to the
91 contrary, and except as otherwise provided in this section, any record
92 of the arrest of any person, other than a juvenile, except a record
93 erased pursuant to chapter 961a, shall be a public record from the time
94 of such arrest and shall be disclosed in accordance with the provisions
95 of section 1-212 and subsection (a) of section 1-210, except that
96 disclosure of data or information other than that set forth in
97 subdivision (1) of subsection (b) of this section shall be subject to the
98 provisions of subdivision (3) of subsection (b) of section 1-210. Any
99 personal possessions or effects found on a person at the time of such
100 person's arrest shall not be disclosed unless such possessions or effects
101 are relevant to the crime for which such person was arrested.

102 (b) For the purposes of this section, "record of the arrest" means (1)
103 the name and address of the person arrested, the date, time and place
104 of the arrest, ~~[and]~~ the offense for which the person was arrested and
105 the facts and circumstances that constituted probable cause for the
106 arrest, and (2) at least one of the following, designated by the law
107 enforcement agency: The arrest report, incident report, news release or
108 other similar report of the arrest of a person.

109 Sec. 3. (NEW) (*Effective October 1, 2007*) (a) There is established a
110 select legislative committee on intelligence oversight to oversee and
111 make continuing studies of the intelligence activities and programs of
112 the state and municipalities. The select committee shall:

113 (1) Review the intelligence activities and programs of state and
114 municipal law enforcement agencies;

115 (2) Report to the General Assembly concerning such intelligence
116 activities and programs and submit to the General Assembly any
117 recommendations for legislation related thereto; and

118 (3) Provide legislative oversight over the intelligence activities of the
119 state and municipalities to assure that such activities are in conformity
120 with the laws and Constitution of the state and the United States
121 Constitution.

122 (b) The select committee shall be comprised of the chairpersons and
123 ranking members of the joint standing committees of the General
124 Assembly having cognizance of matters relating to the judiciary, public
125 safety and government administration.

126 (c) The president pro tempore of the Senate and the speaker of the
127 House of Representatives may jointly convene the select committee
128 whenever they deem it necessary.

129 (d) The select committee shall be subject to the provisions of chapter
130 14 of the general statutes and meetings of the select committee shall be
131 open to the public except when the select committee meets in executive
132 session, as defined in section 1-200 of the general statutes, or meets to
133 receive criminal intelligence information pursuant to 28 Code of
134 Federal Regulations, Part 23.

135 (e) The select committee shall be deemed a law enforcement
136 authority performing a law enforcement activity for purposes of
137 receiving criminal intelligence information pursuant to 28 Code of
138 Federal Regulations, Part 23. The select committee shall adopt
139 procedures concerning the receipt, maintenance, security and

140 dissemination of such criminal intelligence information that is
141 consistent with federal regulations. Any member of the select
142 committee who discloses confidential information received by the
143 select committee pursuant to this section shall be subject to the same
144 penalties a law enforcement official would be subject to for such
145 unauthorized disclosure.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	New section
Sec. 2	<i>October 1, 2007</i>	1-215
Sec. 3	<i>October 1, 2007</i>	New section

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Legislative Mgmt.; Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	See Below	See Below
Police Officer Std. & Training Council; Public Safety, Dept.	GF - Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
Various Municipalities	Cost	Minimal	Minimal

Explanation

The bill establishes a legislative Select Committee on Intelligence Oversight to oversee and study state and municipal intelligence activities and programs. The Office of Legislative Management will need to hire one full-time committee clerk position, with a salary of \$35,000 (plus fringe benefits) to serve as the administrative staff of the Select Committee.

The bill also establishes various structures regarding the manner in which police can gather information under certain circumstances. To the extent that the bill would require additional training for state and local police departments, a minimal cost for overtime or additional training materials could result.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sHB 7390

***AN ACT CONCERNING OVERSIGHT OF INTELLIGENCE
GATHERING BY LAW ENFORCEMENT AGENCIES.***

SUMMARY:

This bill permits law enforcement agencies to collect and maintain criminal intelligence information on individuals and organizations to protect public officials and prevent the disruption of (1) public officials exercising their powers or duties or (2) agency meetings. This authority does not affect law enforcement agencies' ability to (1) receive tips and investigate actual or suspected criminal conduct or activities or (2) collect and maintain criminal intelligence information for any other purpose.

The bill establishes a 12-member legislative Select Committee on Intelligence Oversight to oversee and continuously study state and municipal intelligence activities and programs.

It increases the information that must be disclosed when arrest records are sought under the Freedom of Information Act to include the facts and circumstances that constitute probable cause for the arrest.

EFFECTIVE DATE: October 1, 2007

INTELLIGENCE GATHERING

The bill permits law enforcement agencies to collect and maintain criminal intelligence information on individuals and organizations to (1) protect public officials and (2) prevent anyone from disturbing, disrupting, or interfering with public agencies' meetings or public officials' performing their official functions, powers, or duties. This authority applies if the:

1. law enforcement agency has an articulable suspicion that the individual or organization is engaged in or will engage in criminal conduct or activity directed at a (a) public agency's meeting or (b) public official performing his or her official functions, powers, or duties or with respect to the meetings of a public agency;
2. individual has been convicted of an offense involving the use, attempted use, or threatened use of physical force against another person;
3. individual has been convicted of threatening, harassing, or stalking a public official, violating a restraining or protective order involving a public official, or trespassing in a building or other premises where a public official resides or frequents;
4. individual has been convicted of disturbing, disrupting, or interfering with a public agency's meeting or public official performing his or her official functions, powers, or duties; or
5. law enforcement agency deems it appropriate to protect public officials or prevent anyone from disrupting an agency meeting or public officials carrying out their official duties or functions.

(It is unclear whether law enforcement agencies can gather intelligence information on an organization if some or all of its members have criminal records of the type listed above.) "Public officials" are elected state and municipal officials; gubernatorial and legislative appointees, including public members and representatives of teachers' and state employees' unions on the Investment Advisory Council but not members of other advisory boards; appointed municipal officials; members and directors of quasi-public agencies; judges; and members of Congress. "Public agencies" mean state and local governmental agencies, departments, institutions, bureaus, boards, and commissions, including executive, administrative, and legislative offices, and the administrative functions of the judicial branch and the Division of Criminal Justice.

The bill prohibits law enforcement agencies from collecting or maintaining criminal intelligence information on a person's or organization's political, religious, or social views; associations; or activities unless it relates to criminal conduct or activity and there is an articulable suspicion that the person or organization is engaged in or will engage in criminal conduct or activity.

Sharing and Disseminating Intelligence Information

Whenever a law enforcement agency briefs its officers on its reasons for gathering intelligence information and shares it, the bill requires the agency to include in the briefing an explanation of citizens' statutory and constitutional rights at public events, including their (1) freedom of speech; (2) freedom from unreasonable searches and seizures; (3) freedom from arrest, detention, or punishment except where clearly warranted by law; (4) right to peaceably assemble; and (5) right to petition their government for a redress of grievances.

Reports

Law enforcement agencies must annually, by January 15th, submit a report to the public safety commissioner if during the preceding year they collected and maintained criminal intelligence information on individuals that did not have a criminal history and that did not appear to plan any criminal activity. (The bill does not appear to mandate the report if the agencies maintained intelligence information on organizations under the same circumstances).

The report must include:

1. the agency's reasons for collecting and maintaining the information;
2. the criminal activity in which the agency believed the individual might engage;
3. whether the individual was investigated, detained, or arrested and the facts and circumstances of the investigation, detention, or arrest; and

4. the status of any criminal prosecution resulting from the individual's arrest.

By January 31st of each year, the commissioner must submit a report to the Judiciary Committee on law enforcement agencies' activities in this area.

LEGISLATIVE COMMITTEE ON INTELLIGENCE OVERSIGHT

The bill establishes a 12-member select legislative committee on intelligence oversight to oversee and continuously study state and municipal intelligence activities and programs. The committee consists of the chairs and ranking members of the Judiciary, Public Safety, and Government Administration and Elections committees. The Senate president pro tempore and the House speaker may jointly convene the committee whenever they deem it necessary.

The committee is a law enforcement authority performing a law enforcement activity for purposes of receiving criminal intelligence information pursuant to federal Criminal Intelligence Systems Operating Policies (28 CFR Part 23). Any committee member that discloses confidential information received pursuant to these federal regulations is subject to the same penalties as a law enforcement officer who does so.

The committee must:

1. review state and municipal law enforcement agencies' intelligence activities and programs;
2. report to the General Assembly on these activities and programs and make recommendations for legislation related to them;
3. provide legislative oversight over state and municipal intelligence activities to assure that they conform with state laws and the federal and state constitutions; and
4. adopt procedures concerning the receipt, maintenance, security and dissemination of federal criminal intelligence information

that are consistent with federal regulations.

The committee is subject to the Freedom of Information Act (FOIA). This means its records and meetings are open to the public unless the act or some other state or federal law requires them to be confidential. The bill provides that committee meetings held to receive criminal intelligence information pursuant to 28 CFR Part 23 are confidential.

BACKGROUND

Criminal Intelligence Systems Operating Policies

The policies are guidelines for law enforcement agencies. They were adopted to help these agencies deal with the complexities of criminal networks and conspiracies and criminal mobility. They contain implementing standards for operating federally grant-funded multi-jurisdictional criminal intelligence systems. They specifically provide guidance in five primary areas: submission and entry of criminal intelligence information, security, inquiry, dissemination, and the review-and-purge process.

The policies do not provide specific, detailed information on how the standards should be implemented by the operating agency but, instead, provide the ability for each agency to develop its own policies and procedures.

The standards apply to all multi-jurisdictional criminal intelligence systems operating under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended. This includes any Office of Justice Programs and Bureau of Justice Assistance programs, such as the Byrne Formula or Discretionary Grants Programs, the Local Law Enforcement Block Grant Program, and Community Oriented Policing Services grants.

Arrest Information Disclosable Under FOIA

The police are required to disclose the: (1) name and address of the person arrested; (2) date, time, and place of the arrest; (3) offense for which the person was arrested, and (4) arrest report, incident report, news release, or other similar report on the person arrested.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 32 Nay 9 (04/13/2007)