
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 946 Session of
2019

INTRODUCED BY COSTA, FONTANA, MUTH, HUGHES, L. WILLIAMS,
SANTARSIERO, FARNESE, KEARNEY, TARTAGLIONE, SCHWANK, STREET,
DINNIMAN, SABATINA, BREWSTER, COLLETT AND HAYWOOD,
NOVEMBER 18, 2019

REFERRED TO JUDICIARY, NOVEMBER 18, 2019

AN ACT

1 Amending Title 44 (Law and Justice) of the Pennsylvania
2 Consolidated Statutes, establishing a hate group database;
3 and imposing powers and duties on the Attorney General.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 44 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 6

9 HATE GROUP DATABASE

10 Sec.

11 601. Definitions.

12 602. Hate group database.

13 603. Intelligence information.

14 604. Hate group unit established.

15 605. Regulations.

16 § 601. Definitions.

17 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Appropriate agency." A department, board, commission or
4 agency of the Commonwealth, the Federal Government or another
5 state, as approved by the Attorney General of the Commonwealth
6 for access to the hate group database.

7 "Hate crime." A criminal offense against a person or
8 property motivated in whole or in part by an offender's bias
9 against a race, religion, disability, sexual orientation,
10 ethnicity, gender identity or any other immutable
11 characteristic.

12 "Hate group." A group of individuals, as designated by the
13 Attorney General, who, based on the group's official statements
14 or principles, the statements of group leaders or group
15 activities, has beliefs, biases or practices that attack or
16 malign a class of people and who may commit or attempt to commit
17 a hate crime in this Commonwealth.

18 "Hate group database." The Statewide hate group database
19 established under section 602 (relating to hate group database).

20 "Intelligence information." Information concerning the
21 habits, practices, characteristics, possessions, associations
22 and affiliations of an individual or group of individuals
23 compiled in an effort to anticipate, prevent and monitor hate
24 group activity and investigate or prosecute hate crimes.

25 "Law enforcement agency." The Pennsylvania State Police and
26 a police department of a city, borough, incorporated town or
27 township in this Commonwealth. The term includes county district
28 attorneys' offices and the Office of Attorney General of the
29 Commonwealth, Federal law enforcement agencies and law
30 enforcement agencies of other states in accordance with rules

1 and regulations promulgated by the Attorney General to implement
2 this chapter.

3 § 602. Hate group database.

4 (a) Establishment.--The Attorney General, in consultation
5 with the Pennsylvania State Police, shall provide for the
6 establishment of a Statewide hate group database.

7 (b) Duties of Attorney General.--The Attorney General shall:

8 (1) Coordinate, designate and facilitate the use of the
9 hate group database established under subsection (a).

10 (2) Ensure that the hate group database is configured to
11 limit accessibility to law enforcement agencies and other
12 appropriate agencies.

13 (3) Utilize existing resources, networks or structures
14 inside or outside this Commonwealth to:

15 (i) Designate an individual or group of individuals
16 as a members of a hate group or affiliates or associates
17 of a hate group.

18 (ii) Evaluate and investigate actual and alleged
19 hate crimes and hate group activity, including
20 paramilitary activity or training, recruitment efforts
21 and reports of overt or covert hate group activities in
22 this Commonwealth.

23 (4) Adopt and establish rules and establish regulations
24 for entering hate groups and members, associates and
25 affiliates of hate groups and hate group activity into the
26 hate group database. Data on individuals may be entered based
27 on reasonable suspicion, reports of alleged activity or
28 actual criminal activity related to a hate crime.

29 (5) Annually compile a hate group report, which shall
30 include available data sources such as uniform crime reports,

1 record management systems and entries into the hate group
2 database.

3 (6) Provide a secure link on the Attorney General's
4 publicly accessible Internet website for public reports of
5 hate group activity and initiate a public awareness campaign
6 to encourage individuals to report hate crimes or acts of
7 suspected hate group activity, including, but not limited to,
8 distribution of literature and other similar activities aimed
9 at promoting messages of hate and intolerance.

10 (7) Ensure that individuals entered into the hate group
11 database are 16 years of age or older.

12 (8) Adopt rules to govern access to the hate group
13 database by appropriate agencies.

14 (c) Compliance with Federal regulations.--The hate group
15 database shall comply with Federal regulations for state law
16 enforcement databases shared with other law enforcement
17 agencies, including auditing and access to data.

18 (d) Use of intelligence information.--The hate group
19 database shall:

20 (1) Contain intelligence information available to law
21 enforcement agencies, other Commonwealth agencies, including,
22 but limited to, the Pennsylvania Department of Corrections
23 and the Pennsylvania Board of Probation and Parole, and
24 Federal law enforcement agencies solely for tracking domestic
25 terrorists, hate groups, hate group members, affiliates and
26 associates and hate crime and hate group activities and
27 incidents in this Commonwealth.

28 (2) Provide an Internet-based multiagency,
29 multilocation, information-sharing website or application for
30 law enforcement agencies which operates as a network system.

1 (e) Accessibility.--The hate group database shall be
2 accessible only to appropriate agency employees approved by the
3 Attorney General.

4 (f) Database use.--The hate group database shall be used for
5 intelligence information and investigative information and shall
6 not be used as evidence in any criminal, civil or administrative
7 proceeding. Law enforcement may use intelligence information
8 within the hate group database to obtain information external to
9 the hate group database to formulate reasonable suspicion
10 necessary to make a stop or arrest, except that the existence of
11 intelligence information relating to an individual maintained
12 within the hate group database shall not by itself justify a
13 stop or an arrest.

14 (g) Confidentiality.--The hate group database and the
15 intelligence information maintained in the hate group database
16 are exempt from public disclosure and shall not be a public
17 record subject to disclosure under the act of February 14, 2008
18 (P.L.6, No.3), known as the Right-to-Know Law.
19 § 603. Intelligence information.

20 (a) Authority to collect and maintain intelligence
21 information.--Notwithstanding any other provision of law,
22 intelligence information collected on an individual or group of
23 individuals suspected or known to have engaged or attempted to
24 engage in hate group activity in this Commonwealth, or any
25 associate or affiliates of an individual or group of
26 individuals, may only be maintained in the hate group database
27 in accordance with subsection (b).

28 (b) Collection of intelligence information.--The following
29 apply:

30 (1) Intelligence information may only be placed in the

1 hate group database if the following apply:

2 (i) a law enforcement agency has reasonable
3 suspicion of hate group activity;

4 (ii) the intelligence information is related to hate
5 group activity that would give rise to prosecution for a
6 Federal or State offense for which the penalty is
7 imprisonment for more than one year; or

8 (iii) the intelligence information is not collected
9 in violation of any law of this Commonwealth.

10 (2) Access to the intelligence information contained in
11 the hate group database shall be restricted to authorized
12 employees of a law enforcement agency and cannot be accessed
13 by any other person.

14 (3) Intelligence information related to hate group
15 activity may not be collected or maintained in the hate group
16 database if the information concerns participation in a
17 political, religious or social organization that is not
18 affiliated with a hate group or the organization or support
19 of a nonviolent demonstration, assembly, protest, rally or
20 similar form of public speech, unless there is a reasonable
21 suspicion that participation by a subject of intelligence
22 information is related to hate group activity.

23 (c) Dissemination of intelligence information.--The
24 following apply:

25 (1) Intelligence information may be maintained in the
26 hate group database and disseminated if:

27 (i) The information is reliable as determined by the
28 Attorney General, a district attorney or other law
29 enforcement officer.

30 (ii) The department, agency or individual requesting

1 the information is a law enforcement agency that has
2 policies and procedures adopted by the Office of Attorney
3 General, in consultation with the Pennsylvania State
4 Police, which are consistent with this chapter and
5 include:

6 (A) Designation of a law enforcement officer or
7 officers by the head of the law enforcement agency or
8 a designee to request and receive intelligence
9 information maintained in the hate group database.

10 (B) Adoption of administrative, technical and
11 physical safeguards and rules, including audit
12 trails, to ensure against unauthorized access and
13 against intentional or unintentional damages.

14 (C) Labeling intelligence information to
15 indicate levels of sensitivity and levels of
16 confidence in the accuracy of the information.

17 (iii) The intelligence information is requested in
18 connection with the duties of the law enforcement agency
19 requesting the information and the request for
20 intelligence information is based upon a name,
21 fingerprints, modus operandi, genetic typing, voice print
22 or other identifying characteristic.

23 (2) If the Attorney General or a designated employee of
24 the Office of Attorney General or another disseminating law
25 enforcement agency is notified that intelligence information
26 which has been previously disseminated to another law
27 enforcement agency is materially misleading or otherwise
28 unreliable, the information shall be corrected and the
29 recipient agency notified of the change within 30 days of
30 notification.

1 (3) The Attorney General shall establish retention
2 schedules for intelligence information. Intelligence
3 information shall be purged under the following conditions:

4 (i) The data is no longer relevant or necessary to
5 the goals and objectives of the Attorney General or other
6 law enforcement agency.

7 (ii) The data has become obsolete, making it
8 unreliable for present purposes, and the utility of
9 updating the data would be worthless.

10 (iii) The data cannot be utilized for strategic or
11 tactical intelligence studies.

12 (4) Intelligence information about specific individuals
13 in the hate group database shall be automatically expunged
14 if:

15 (i) no new or updated intelligence information
16 related to hate group activity or the commission of a
17 hate crime has been entered into the hate group database
18 within the previous five years;

19 (ii) there are no alleged or actual reports of hate
20 group activity against the individual subject to
21 expungement in any Federal, Commonwealth or state court;

22 (iii) the individual has not been convicted of a new
23 hate crime in Federal, Commonwealth or state court within
24 the last five years; and

25 (iv) if confined in a correctional institution, at
26 least five years have elapsed since the individual
27 completed a term of total confinement or sentence of
28 probation or parole.

29 (5) Each municipal police department accessing
30 intelligence information maintained in the hate group

1 database shall file a copy of its procedures with the
2 Pennsylvania State Police for approval. The plan shall be
3 reviewed within 60 days of receipt.

4 (6) Each district attorney accessing intelligence
5 information maintained in the hate group database shall file
6 a copy of its procedures with the Office of Attorney General
7 for approval. The plan shall be reviewed within 60 days of
8 receipt.

9 (d) Secondary dissemination prohibited.--A law enforcement
10 agency that has intelligence information on hate group activity
11 or an alleged or actual hate crime, but is not the source of the
12 intelligence information shall not disseminate or disclose the
13 intelligence information to another law enforcement agency and
14 shall refer the requesting law enforcement agency to the law
15 enforcement agency that was the initial source of the
16 intelligence information. This prohibition shall not apply if
17 the law enforcement agency receiving the intelligence
18 information is investigating or prosecuting a hate crime or a
19 criminal incident related to hate group activity in conjunction
20 with the law enforcement agency possessing the intelligence
21 information. Law enforcement agencies receiving intelligence
22 information related to a hate crime or hate group activity
23 assume the same level of responsibility for the security of the
24 intelligence information as the law enforcement agency that was
25 the initial source of the information.

26 (e) Security requirements.--If intelligence information is
27 maintained in the hate group database, each law enforcement
28 agency collecting, requesting, storing or disseminating
29 intelligence information related to hate group activity shall
30 ensure the confidentiality and security of the information by:

1 (1) Instituting procedures to reasonably protect any
2 repository from theft, fire, sabotage, flood, wind or other
3 natural or manmade disasters.

4 (2) Designating, supervising and training all personnel
5 of the law enforcement agency authorized to have access to
6 intelligence information maintained in the hate group
7 database.

8 (3) Ensuring that:

9 (i) if information technology is employed, the
10 equipment, systems, software and networks used for
11 maintaining and disseminating intelligence information
12 are dedicated solely to purposes related to hate crimes
13 and hate group activities; or

14 (ii) if information technology is not employed, a
15 law enforcement agency authorized to have access to
16 intelligence information is accorded equal management
17 participation in computer operations used to maintain and
18 disseminate the intelligence information.

19 § 604. Hate group unit established.

20 (a) Establishment.--Within 90 days of the effective date of
21 this section, the Attorney General shall establish a hate group
22 unit within the Office of Attorney General.

23 (b) Procedures.--The unit shall develop procedures to track
24 hate crimes and hate group activities in this Commonwealth and
25 may investigate and institute criminal proceedings of alleged
26 perpetrators of hate crimes.

27 (c) Criminal action.--The following apply:

28 (1) District attorneys of the several counties of this
29 Commonwealth shall have authority to investigate and
30 institute a criminal proceeding for an offense related to a

1 hate crime or hate group activity deemed to be a hate crime.

2 (2) In addition to the authority conferred upon the
3 Attorney General under the act of October 15, 1980 (P.L.950,
4 No.164), known as the Commonwealth Attorneys Act, the
5 Attorney General shall have the authority to investigate and,
6 following consultation with the appropriate district
7 attorney, to institute criminal proceedings related to hate
8 crimes and hate groups.

9 (d) Standing.--Notwithstanding any other provision of law,
10 an individual charged with an offense the Attorney General deems
11 a hate crime shall not have standing to challenge the authority
12 of the Attorney General to investigate or prosecute the case,
13 and, if any challenge is made, the challenge shall be dismissed
14 and no relief shall be available in the courts of this
15 Commonwealth to the individual making the challenge.

16 § 605. Regulations.

17 The Attorney General may adopt and establish rules and
18 regulations necessary to carry out the provisions of this
19 chapter.

20 Section 2. This act shall take effect in 60 days.