

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

SENATE BILL

No. 713 Session of  
2021

---

INTRODUCED BY COSTA, FONTANA, KEARNEY, HUGHES, COMMITTA, MUTH,  
SANTARSIERO, BREWSTER, SCHWANK, KANE, SAVAL, STREET AND  
A. WILLIAMS, MAY 25, 2021

---

REFERRED TO JUDICIARY, MAY 25, 2021

---

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

18 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

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

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

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

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

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

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

1 this chapter.

2 § 602. Hate group database.

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

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

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

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

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

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

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

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

28 (5) Annually compile a hate group report, which shall  
29 include available data sources such as uniform crime reports,  
30 record management systems and entries into the hate group

1 database.

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

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

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

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

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

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

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

30 (e) Accessibility.--The hate group database shall be

1 accessible only to appropriate agency employees approved by the  
2 Attorney General.

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

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

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

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

29 (1) Intelligence information may only be placed in the  
30 hate group database if the following apply:

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

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

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

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

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

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

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

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

29                    (ii) The department, agency or individual requesting  
30                    the information is a law enforcement agency that has

1 policies and procedures adopted by the Office of Attorney  
2 General, in consultation with the Pennsylvania State  
3 Police, which are consistent with this chapter and  
4 include:

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

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

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

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

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

30 (3) The Attorney General shall establish retention

1 schedules for intelligence information. Intelligence  
2 information shall be purged under the following conditions:

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

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

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

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

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

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

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

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

28 (5) Each municipal police department accessing  
29 intelligence information maintained in the hate group  
30 database shall file a copy of its procedures with the



1 Pennsylvania State Police for approval. The plan shall be  
2 reviewed within 60 days of receipt.

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

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

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

30 (1) Instituting procedures to reasonably protect any

1 repository from theft, fire, sabotage, flood, wind or other  
2 natural or manmade disasters.

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

7 (3) Ensuring that:

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

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

18 § 604. Hate group unit established.

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

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

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

27 (1) District attorneys of the several counties of this  
28 Commonwealth shall have authority to investigate and  
29 institute a criminal proceeding for an offense related to a  
30 hate crime or hate group activity deemed to be a hate crime.

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

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

15 § 605. Regulations.

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

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