



# Texas Government Code

## Chapter 421





## GOVERNMENT CODE

### TITLE 4. EXECUTIVE BRANCH

#### SUBTITLE B. LAW ENFORCEMENT AND PUBLIC PROTECTION

#### CHAPTER 421. HOMELAND SECURITY

#### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 421.001. DEFINITIONS. In this chapter:

- (1) “Agency” means any governmental entity.
- (2) “Critical infrastructure” includes all public or private assets, systems, and functions vital to the security, governance, public health and safety, economy, or morale of the state or the nation.
- (3) “Homeland security activity” means any activity related to the prevention or discovery of, response to, or recovery from a terrorist attack, natural or man-made disaster, hostile military or paramilitary action, or extraordinary law enforcement emergency.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

Sec. 421.002. HOMELAND SECURITY STRATEGY. (a) The governor shall direct homeland security in this state and shall develop a statewide homeland security strategy that improves the state’s ability to:

- (1) detect and deter threats to homeland security;
- (2) respond to homeland security emergencies; and
- (3) recover from homeland security emergencies.

(b) The governor’s homeland security strategy shall coordinate homeland security activities among and between local, state, and federal agencies and the private sector and must include specific plans for:

- (1) intelligence gathering and analysis;
- (2) information sharing;
- (3) reducing the state’s vulnerability to homeland security emergencies;
- (4) protecting critical infrastructure;

- (5) protecting the state's international border, ports, and airports;
  - (6) detecting, deterring, and defending against terrorism, including cyber-terrorism and biological, chemical, and nuclear terrorism;
  - (7) positioning equipment, technology, and personnel to improve the state's ability to respond to a homeland security emergency;
  - (8) directing the Texas Infrastructure Protection Communications Center and giving the center certain forms of authority to implement the governor's homeland security strategy; and
  - (9) using technological resources to:
    - (A) facilitate the interoperability of government technological resources, including data, networks, and applications;
    - (B) coordinate the warning and alert systems of state and local agencies;
    - (C) incorporate multidisciplinary approaches to homeland security; and
    - (D) improve the security of governmental and private sector information technology and information resources.
- (c) The governor's homeland security strategy must complement and operate in coordination with the federal homeland security strategy.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

Sec. 421.0025. BORDER SECURITY COUNCIL. (a) The Border Security Council consists of members appointed by the governor.

(a-1) At least one-third of the members appointed under Subsection (a) must be residents of the Texas-Mexico border region, as defined by Section 2056.002.

(b) The Border Security Council shall develop and recommend to the office of the governor performance standards, reporting requirements, audit methods, and other procedures to ensure that funds allocated by the office of the governor for purposes related to security at or near this state's international border are used properly and that the recipients of the funds are accountable for the proper use of the funds.

(c) The Border Security Council shall advise the office of the governor regarding the allocation of funds by the office for purposes related to security at or near this state's international border. Recommendations relating to the allocation of those funds must be made by a majority of the members of the council.

(d) The governor shall designate one member of the Border Security Council as the chair. The chair shall arrange meetings of the Border Security Council at times determined by the members of the council.

(e) The meetings of the Border Security Council are subject to the requirements of Chapter 551 to the same extent as similar meetings of the Public Safety Commission. The plans and recommendations of the Border Security Council are subject to the requirements of Chapter 552 to the same extent as similar plans and recommendations of the Department of Public Safety of the State of Texas.

(f) Service on the Border Security Council by a state officer or employee or by an officer or employee of a local government is an additional duty of the member's office or employment.

Added by Acts 2007, 80th Leg., R.S., Ch. 258, Sec. 18.01, eff. September 1, 2007.

Sec. 421.003. CRIMINAL INTELLIGENCE INFORMATION. The Department of Public Safety of the State of Texas is:

(1) the repository in this state for the collection of multijurisdictional criminal intelligence information that is about terrorist activities or otherwise related to homeland security activities; and

(2) the state agency that has primary responsibility to analyze and disseminate that information.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

Sec. 421.004. PROVISIONS GOVERNING MOBILE TRACKING DEVICES. In the event of a conflict between Section 14, Article 18.21, Code of Criminal Procedure, and this chapter or a rule adopted under this chapter, Section 14, Article 18.21, Code of Criminal Procedure, controls.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

## **SUBCHAPTER B. HOMELAND SECURITY COUNCIL**

Sec. 421.021. MEMBERSHIP. (a) The Homeland Security Council is composed of the governor or the governor's designee, the speaker of the house of representatives or the speaker's designee, the lieutenant governor or the lieutenant governor's designee, and one representative of each of the following entities, appointed by the single statewide elected or appointed governing officer, administrative head, or chair, as appropriate, of the entity:

- (1) Department of Agriculture;
- (2) office of the attorney general;
- (3) General Land Office;
- (4) Public Utility Commission of Texas;
- (5) Department of State Health Services;
- (6) Department of Information Resources;
- (7) Department of Public Safety of the State of Texas;
- (8) Texas Division of Emergency Management;
- (9) adjutant general's department;
- (10) Texas Commission on Environmental Quality;
- (11) Railroad Commission of Texas;
- (12) Texas Strategic Military Planning Commission;
- (13) Texas Department of Transportation;
- (14) Commission on State Emergency Communications;
- (15) Office of State-Federal Relations;
- (16) secretary of state;
- (17) Senate Committee on Transportation and Homeland Security;
- (18) House Committee on Defense and Veterans' Affairs;
- (19) Texas Animal Health Commission;
- (20) Texas Association of Regional Councils;
- (21) Texas Commission on Law Enforcement Officer Standards and

Education;

- (22) state fire marshal's office;
- (23) Texas Education Agency;
- (24) Texas Commission on Fire Protection;
- (25) Parks and Wildlife Department;
- (26) Texas Forest Service; and
- (27) Texas Water Development Board.

(b) To be eligible for appointment as a member of the council, a person must be directly involved in policies, programs, or funding activities that are relevant to homeland security or infrastructure protection.

(c) A member of the council serves at the will of the governor. At the request of the governor, an appointing authority under this section shall appoint a different member.

(d) An officer or employee of a state or local agency who serves as a member of the council or a special advisory committee under this subchapter shall perform the duties required by the council or special advisory committee as an additional duty of the member's office or employment.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1337, Sec. 10, eff. June 18, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1146, Sec. 2B.06, eff. September 1, 2009.

Sec. 421.022. REIMBURSEMENT OF EXPENSES. A member of the council may not receive additional compensation for service on the council but is entitled to reimbursement of reasonable expenses incurred in direct performance of official duties, including travel expenses incurred by the member while conducting the business of the council, subject to any applicable limitation on reimbursement provided by general law or the General Appropriations Act.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

Sec. 421.023. ADMINISTRATION. (a) The council is an advisory entity administered by the office of the governor.

(b) The governor may adopt rules as necessary for the operation of the council.

(c) The governor shall designate the presiding officer of the council.

(d) The council shall meet at the call of the governor and shall meet at least once each quarter in a calendar year.

(e) The council is not subject to Chapter 2110.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

Sec. 421.024. DUTIES. The council shall advise the governor on:

(1) the development and coordination of a statewide critical infrastructure protection strategy;

(2) the implementation of the governor's homeland security strategy by state and local agencies and provide specific suggestions for helping those agencies implement the strategy; and

(3) other matters related to the planning, development, coordination, and implementation of initiatives to promote the governor's homeland security strategy.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

Sec. 421.025. SPECIAL ADVISORY COMMITTEES. (a) The governor may appoint one or more special advisory committees composed of representatives

from state or local agencies or nongovernmental entities not represented on the council.

(b) The governor shall determine the number of members and qualifications for membership on a special advisory committee under this section.

(c) A special advisory committee under this section shall assist the council in performing its duties.

(d) A special advisory committee under this section is subject to Chapter 2110, except that Section 2110.002 does not apply.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

Sec. 421.026. REPORT. The council shall annually submit to the governor a report stating:

(1) the council's progress in developing and coordinating a statewide critical infrastructure protection strategy;

(2) the status and funding of state programs designed to detect and deter homeland security emergencies, including the status and funding of counterterrorism efforts;

(3) recommendations on actions to reduce threats to homeland security, including threats related to terrorism; and

(4) recommendations for improving the alert, response, and recovery capabilities of state and local agencies.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

## **SUBCHAPTER B-1. PERMANENT SPECIAL ADVISORY COMMITTEES**

Sec. 421.041. FIRST RESPONDER ADVISORY COUNCIL. (a) The First Responder Advisory Council is a permanent special advisory committee created to advise the governor or the governor's designee on homeland security issues relevant to first responders, radio interoperability, the integration of statewide exercises for hazards, and the related use of available funding.

(b) The council is composed of:

(1) one representative for each of the following sectors of the state, appointed by the governor or the governor's designee:

(A) law enforcement;

(B) firefighters;

(C) private first responders; and

(D) emergency medical services; and

(2) other members, as determined by the governor or the governor's designee.

Added by Acts 2005, 79th Leg., Ch. 1337, Sec. 11, eff. June 18, 2005.

Sec. 421.042. PRIVATE SECTOR ADVISORY COUNCIL. (a) The Private Sector Advisory Council is a permanent special advisory committee created to advise the governor or the governor's designee on homeland security issues relevant to the private sector.

(b) The council is composed of:

(1) one representative of a private organization or entity for each of the following sectors of the state, each appointed by the governor or the governor's designee:

- (A) agriculture and food;
- (B) banking and finance;
- (C) chemicals and hazardous materials;
- (D) the defense industry;
- (E) energy;
- (F) emergency services;
- (G) information technology;
- (H) telecommunications;
- (I) postal and shipping;
- (J) public health;
- (K) transportation;
- (L) ports and waterways; and
- (M) national monuments and icons; and

(2) other members, as determined by the governor or the governor's designee.

Added by Acts 2005, 79th Leg., Ch. 1337, Sec. 11, eff. June 18, 2005.

Sec. 421.043. ELIGIBILITY. (a) To be eligible for appointment as a member of a permanent special advisory committee created under this subchapter, a person must demonstrate experience in the sector that the person is under consideration to represent and be directly involved in related policies, programs, or funding activities that are relevant to homeland security or infrastructure protection.

(b) Each member of a permanent special advisory committee created under this subchapter serves at the will of the governor.

Added by Acts 2005, 79th Leg., Ch. 1337, Sec. 11, eff. June 18, 2005.

Sec. 421.044. COMPENSATION AND REIMBURSEMENT OF EXPENSES PROHIBITED. A person who is a member of a permanent special advisory committee created under this subchapter is not entitled to receive compensation from this state for service on the committee or travel expenses incurred by the person while conducting the business of the committee.

Added by Acts 2005, 79th Leg., Ch. 1337, Sec. 11, eff. June 18, 2005.

Sec. 421.045. DUTIES. Each permanent special advisory committee created under this subchapter shall advise the governor on:

- (1) the development and coordination of a statewide critical infrastructure protection strategy;
- (2) the implementation of the governor's homeland security strategy by state and local agencies and provide specific suggestions for helping those agencies implement the strategy;
- (3) specific priorities related to the governor's homeland security strategy that the committee determines to be of significant importance to the statewide security of critical infrastructure; and
- (4) other matters related to the planning, development, coordination, and implementation of initiatives to promote the governor's homeland security strategy.

Added by Acts 2005, 79th Leg., Ch. 1337, Sec. 11, eff. June 18, 2005.

## **SUBCHAPTER C. CIVIL LIABILITY FOR ACTS OR OMISSIONS**

Sec. 421.061. CIVIL LIABILITY. (a) An officer or employee of a state or local agency performing a homeland security activity or a volunteer performing a homeland security activity at the request or under the direction of an officer or employee of a state or local agency is considered for purposes of Section 431.085 to be a member of the state military forces ordered into active service of the state by proper authority and is considered to be discharging a duty in that capacity if:

- (1) the officer, employee, or volunteer is performing the homeland security activity under procedures prescribed or circumstances described for the purpose of this section in the governor's homeland security strategy;
- (2) in the case of a volunteer, the volunteer is acting within the course and

scope of the request or direction of the officer or employee of the state or local agency; and

(3) in the case of an officer or employee of a state or local agency, the officer or employee is acting within the course and scope of the person's authority.

(b) A person described by Subsection (a) is not immune from civil liability under Section 431.085 for damages resulting from the performance of a homeland security activity if, under the circumstances, the person's performance of the homeland security activity was wilfully or wantonly negligent or done with conscious indifference or reckless disregard for the safety of persons this chapter is intended to protect.

(c) This section does not make a person a member of the state military forces for any other purpose, including for purposes of the application of the Uniform Code of Military Justice.

(d) This section does not affect the application of Section 431.085 on its own terms to a person who is a member of the state military forces ordered into active service of the state by proper authority under other law.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

Sec. 421.062. LIABILITY UNDER INTERLOCAL CONTRACT. (a) In this section, "interlocal contract" has the meaning assigned by Section 791.003.

(b) A state or local agency that furnishes a service related to a homeland security activity under an interlocal contract is immune from civil liability for any act or omission resulting in death, damage, or injury while acting under the interlocal contract if:

(1) the interlocal contract expressly states that the furnishing state or local agency is not responsible for any civil liability that arises from the furnishing of a service under the contract; and

(2) the state or local agency committed the act or omission while acting in good faith and in the course and scope of its functions to provide a service related to a homeland security activity.

(c) This section may not be interpreted as a waiver of any immunity that might exist in the absence of an interlocal contract or a provision in an interlocal contract as set forth in Subsection (b).

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

## SUBCHAPTER D. COOPERATION AND ASSISTANCE; FUNDING

Sec. 421.071. COOPERATION AND ASSISTANCE. A state or local agency that performs a homeland security activity or a nongovernmental entity that contracts with a state or local agency to perform a homeland security activity shall cooperate with and assist the office of the governor, the Homeland Security Council, the Texas Infrastructure Protection Communications Center, and the National Infrastructure Protection Center in the performance of their duties under this chapter and other state or federal law.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1337, Sec. 12, eff. June 18, 2005.

Sec. 421.072. FUNDING. (a) The office of the governor shall:

(1) allocate available federal and state grants and other funding related to homeland security to state and local agencies and defense base development authorities created under Chapter 379B, Local Government Code, that perform homeland security activities;

(2) periodically review the grants and other funding for appropriateness and compliance;

(3) designate state administering agencies to administer all grants and other funding to the state related to homeland security; and

(4) measure the effectiveness of the homeland security grants and other funding.

(b) State and local agencies that perform homeland security activities shall inform the office of the governor about any actions taken relating to requests for revenue, grants, or other funding for homeland security activities or initiatives.

(c) A state or local agency or defense base development authority that receives a grant or other funding related to homeland security must provide an annual report to the office of the governor detailing:

(1) the compliance of the agency or authority with the state homeland security strategy;

(2) any expenditures made using the funding;

(3) any programs developed or implemented using the funding; and

(4) the manner in which any expenditures made or programs developed or implemented have improved the ability of the agency or authority to detect, deter, respond to, and recover from a terrorist attack.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1337, Sec. 13, eff. June 18, 2005.

## **SUBCHAPTER E. TEXAS FUSION CENTER**

Sec. 421.081. FACILITIES AND ADMINISTRATIVE SUPPORT. The Department of Public Safety of the State of Texas shall provide facilities and administrative support for the Texas Fusion Center.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258, Sec. 18.03, eff. September 1, 2007.

Sec. 421.082. POWERS AND DUTIES. (a) The 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.

(c) In performing its duties under this section, the center shall aim to:

- (1) reduce the vulnerability of at-risk or targeted entities to homeland security emergencies; and
- (2) prevent or minimize damage, injury, loss of life, and loss of property in the event of a homeland security emergency.

(d) The center shall perform its duties under circumstances prescribed by and as directed by the governor's homeland security strategy.

(e) The gang section of the center shall annually submit to the governor and the legislature a report assessing the threat posed statewide by criminal street gangs. The report must include identification of:

- (1) law enforcement strategies that have been proven effective in deterring gang-related crime; and
- (2) gang involvement in trafficking of persons.

(f) On request, the office of the attorney general, the Department of Public

Safety, the Texas Department of Criminal Justice, other law enforcement agencies, and juvenile justice agencies of this state shall provide to the gang section of the center information relating to criminal street gangs, gang-related crime, and gang involvement in trafficking of persons.

(g) Any information received by the center under this section that is stored, combined with other information, analyzed, or disseminated is subject to the rules governing criminal intelligence in 28 C.F.R. Part 23.

Added by Acts 2003, 78th Leg., ch. 1312, Sec. 1, eff. June 21, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1350, Sec. 1, eff. June 19, 2009.

## SUBCHAPTER F. GOVERNOR'S INTEROPERABLE RADIO COMMUNICATIONS PROGRAM

Sec. 421.095. DEFINITIONS. In this subchapter:

(1) "First responder" means a public safety employee or volunteer whose duties include responding rapidly to an emergency. The term includes:

(A) a peace officer whose duties include responding rapidly to an emergency;

(B) fire protection personnel under Section 419.021;

(C) a volunteer firefighter who is:

(i) certified by the Texas Commission on Fire Protection or by the State Firemen's and Fire Marshalls' Association of Texas; or

(ii) a member of an organized volunteer fire-fighting unit as described by Section 615.003; and

(D) an individual certified as emergency medical services personnel by the Department of State Health Services.

(2) "Infrastructure equipment" means the underlying permanent equipment required to establish interoperable communication between radio systems used by local, state, and federal agencies and first responders.

Added by Acts 2005, 79th Leg., Ch. 1337, Sec. 14, eff. June 18, 2005.

Sec. 421.096. INTEROPERABILITY OF RADIO SYSTEMS. The office of the governor shall:

(1) develop and administer a strategic plan to design and implement a statewide integrated public safety radio communications system that promotes

interoperability within and between local, state, and federal agencies and first responders;

(2) develop and administer a plan in accordance with Subdivision (1) to purchase infrastructure equipment for state and local agencies and first responders;

(3) advise representatives of entities in this state that are involved in homeland security activities with respect to interoperability; and

(4) use appropriated money, including money from relevant federal homeland security grants, for the purposes of designing, implementing, and maintaining a statewide integrated public safety radio communications system.

Added by Acts 2005, 79th Leg., Ch. 1337, Sec. 14, eff. June 18, 2005.

Sec. 421.097. ASSISTANCE. The office of the governor may consult with a representative of an entity described by Section 421.096(3) to obtain assistance or information necessary for the performance of any duty under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1337, Sec. 14, eff. June 18, 2005.

Sec. 421.098. REPORT. Not later than September 1 of each year, the office of the governor shall provide to the legislature a report on the status of its duties under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1337, Sec. 14, eff. June 18, 2005.

## **SUBCHAPTER Z. MISCELLANEOUS**

Sec. 421.901. INTEROPERABILITY OF CRITICAL INFORMATION SYSTEMS. The office of the governor shall develop a plan for appropriate entities to use information systems that:

(1) employ underlying computer equipment and software required to establish interoperable communication between computer systems used by local, state, and federal agencies and first responders; and

(2) provide a single point of entry to disseminate information, applications, processes, and communications.

Added by Acts 2005, 79th Leg., Ch. 1337, Sec. 15, eff. June 18, 2005.

