

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 792

An Act to amend the Code of Virginia by adding in Chapter 11 of Title 52 sections numbered 52-48 and 52-49, relating to the Virginia Fusion Intelligence Center; confidentiality; immunity; penalty.

[H 1007]

Approved April 2, 2008

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 11 of Title 52 sections numbered 52-48 and 52-49 as follows:

§ 52-48. Confidentiality and immunity from service of process; penalties.

A. Papers, records, documents, reports, materials, databases, or other evidence or information relative to criminal intelligence or any terrorism investigation in the possession of the Virginia Fusion Intelligence Center shall be confidential and shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.). The Department shall conduct an annual review of information contained in any database maintained by the Virginia Fusion Intelligence Center. Data that has been determined to not have a nexus to terrorist activity shall be removed from such database. A reasonable suspicion standard shall be applied when determining whether or not information has a nexus to terrorist activity.

B. No person, having access to information maintained by the Virginia Fusion Intelligence Center, shall be subject to subpoena in a civil action in any court of the Commonwealth to testify concerning a matter of which he has knowledge pursuant to his access to criminal intelligence information maintained by the Virginia Fusion Intelligence Center.

C. No person or agency receiving information from the Virginia Fusion Intelligence Center shall release or disseminate that information without prior authorization from the Virginia Fusion Intelligence Center.

D. Any person who knowingly disseminates information in violation of this section is guilty of a Class 1 misdemeanor. If such unauthorized dissemination results in death or serious bodily injury to another person, such person is guilty of a Class 4 felony.

E. For purposes of this chapter:

"Criminal intelligence information" means data that has been evaluated and determined to be relevant to the identification and criminal activity of individuals or organizations that are reasonably suspected of involvement in criminal activity. "Criminal intelligence information" shall not include criminal investigative files.

§ 52-49. Receipt of information; immunity from liability.

A. No cause of action for defamation, invasion of privacy, or negligence shall arise against any person for reason of that person's furnishing of information concerning any suspected, anticipated, or completed criminal violation when the information is provided to or received from the Department or any federal or state governmental entity established for the purposes of detecting and preventing acts of terrorism.

B. No person shall be subject to such cause of action for cooperating with, or furnishing evidence or information regarding any suspected criminal violation to, the Department.

C. This section shall not provide immunity for those disclosing or furnishing false information with malice or willful intent to injure any person.

D. This section does not abrogate or modify in any way common law or statutory privilege or immunity heretofore enjoyed by any person or entity.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.