

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3031

By Delegates Jennings, DeVault, Ridenour, Phillips,

McGeehan, Butler, Mallow, and Ward

[Introduced February 28, 2025; referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §15A-12-3 of the Code of West Virginia, 1931, as amended, relating
 2 to the West Virginia Fusion Center Joint Oversight Committee; terminating the Joint
 3 Oversight Committee as of June 30, 2025; establishing the Fusion Center Joint Oversight
 4 Committee to be effective July 1, 2025; directing the Inspector General to conduct an
 5 annual audit of the Fusion Center; establishing audit requirements; requiring Inspector
 6 General or Director of Fusion Center to respond to questions from committee; providing
 7 that the President and Speaker may call Fusion Center employees to testify in committee
 8 meetings; establishing that violations of law or policy identified by audit may form basis for
 9 disciplinary action regarding Fusion Center employee.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. WEST VIRGINIA FUSION CENTER.

§15A-12-3. Fusion Center Joint Oversight Committee; membership; powers; annual audit; and reporting.

1 (a) The Joint Oversight Committee established by this section shall be terminated effective
 2 June 30, 2025. The members of the select committee serving at the time of termination are eligible
 3 for reappointment.

4 (b) Effective July 1, 2025, the Speaker of the House of Delegates and President of the
 5 Senate shall establish a select committee which shall have oversight of the ~~information collected~~
 6 ~~by the West Virginia Fusion Center. to ensure the proper collection, dissemination, storage, and~~
 7 ~~destruction of information or intelligence~~ The committee shall be composed of: (1) The Speaker of
 8 the House of Delegates and four members of the House of Delegates, to be appointed by the
 9 Speaker of the House of Delegates, no more than two of whom shall be appointed from the same
 10 political party; and (2) the President of the Senate and four members of the Senate, to be
 11 appointed by the President of the Senate, no more than two of whom shall be from the same
 12 political party; and counsel and staff to the Speaker and the Senate President: *Provided*, That in
 13 the event the membership of a political party is less than 15 percent in the House of Delegates or

Senate, then the membership of that political party from the legislative house with less than 15 percent membership may be one from that house. The committee shall be chaired by the President of the Senate and the Speaker of the House of Delegates. All members appointed to the select committee by the select committee chairs serve until their successors are appointed as provided in this section.

(c) The select committee is responsible for the general oversight of the West Virginia Fusion Center, including ensuring the proper collection, dissemination, storage, and destruction of information or intelligence it receives. ~~The select committee members, counsel, and staff must have the appropriate security clearance in order to obtain information that is classified and shall be subject to the same rules, regulations, and laws as the employees of the West Virginia Fusion Center for safeguarding both classified and law enforcement sensitive information or intelligence.~~ These select committee members, counsel, and staff shall be advised of the restrictions and protocol for handling such information or intelligence and shall sign a statement of understanding as well as a confidentiality agreement.

~~(b)~~ (d) Members of the select committee may enter and inspect the West Virginia Fusion Center at any time staff is present with select committee counsel and staff, with or without notice to the West Virginia Fusion Center.

~~(c)~~ (e) Meetings of the select committee shall be confidential and the information and materials, in any medium, including hard copy and electronic, coming to the attention of or placed in the custody of the select committee shall not be subject to the West Virginia Freedom of Information Act as set forth in §29B-1-1 *et seq.* of this code.

~~(d)~~ (f) The select committee may conduct proceedings in a confidential executive session for the purpose of conducting business, establishing policy, reviewing investigations, and interrogating a witness or witnesses.

~~(e)~~ (g) All witnesses appearing before the select committee shall testify under oath or affirmation, and any member of the select committee or its counsel may administer oaths or

affirmations to such witnesses. To compel witnesses to attend a hearing or produce any books, records, documents, or papers, or any other tangible thing except where the records, documents, data, or items are protected from disclosure by privilege recognized by state or federal courts, the select committee may issue subpoenas, signed by one of the co-chairs: *Provided*, That the select committee may specifically authorize or delegate the power to any member of the select committee to sign subpoenas on its behalf. The subpoenas shall be served by any person authorized by law to serve and execute legal process, and service shall be made without charge. Witnesses subpoenaed to attend hearings shall be allowed the same mileage and per diem as is allowed witnesses before any petit jury in this state.

~~(f)~~ (h) If any person subpoenaed to appear at any hearing shall refuse to appear or to answer inquiries there propounded, or shall fail or refuse to produce books, records, documents, papers, or any other tangible thing within his or her control when the same are demanded, the select committee shall report the facts to the circuit court of Kanawha County or any other court of competent jurisdiction and that court may compel obedience to the subpoena as though the subpoena had been issued by that court in the first instance: *Provided*, That prior to seeking circuit court relief, the select committee may, in its discretion, first demand the Secretary of Homeland Security or the director of the West Virginia Fusion Center under whom an employee has failed to appear or which has failed to produce requested or subpoenaed material to appear before the select committee and address the basis for the failure to comply and whether compliance will be forthcoming.

~~(g)~~ (i) The select committee may direct the West Virginia Fusion Center to send its budgetary accounting to the State Auditor: *Provided*, That if budgetary expenditures are classified, or security or law enforcement sensitive such that disclosure would compromise an investigation, those entry descriptions, but not the expenditure amounts, may be redacted from the West Virginia Fusion Center accounting provided to the State Auditor: *Provided, however*, That the State Auditor shall bring any accounting issues of concern to the attention of the select committee, upon which

the select committee shall subpoena the West Virginia Fusion Center for unredacted copies of the accounting items to be presented for explanation and justification of the necessity and legality of the concerns raised by the State Auditor. The select committee may take whatever action it deems necessary, if any, after review and analysis of the subpoenaed unredacted materials.

(j) The Department of Homeland Security's Inspector General shall conduct an oversight audit of the West Virginia Fusion Center's operations. The Inspector General may direct and delegate the completion of the oversight audit to the Deputy Cabinet Secretary and General Counsel. The oversight audit shall be completed and provided to the select committee by September 1 each year. The Inspector General or the Director of the West Virginia Fusion Center shall attend a meeting or meetings of the select committee to address any questions regarding the report. The President and Speaker may call West Virginia Fusion Center employees to testify at select committee meetings regarding the oversight audit or general questions regarding the operation of the Fusion Center.

(k) The oversight audit shall encompass all aspects of the West Virginia Fusion Center operation to ensure the following:

(1) That the West Virginia Fusion Center, employees, partners, law enforcement agencies and sub-contractors utilizing the West Virginia Fusion Center services are operating within applicable rules, statutes, and operating policies of the West Virginia Fusion Center;

(2) An assessment of all systems, processes, controls, information, and operations relating to the case management database system utilized during the time period being audited;

(3) Provided, any information which is of a confidential or law enforcement sensitive nature, the personal identifiers, aliases, addresses, and particular content of all personal identifying information (PII) of persons, privacy, civil rights, and civil liberties of any person lawfully within the United States generated by the West Virginia Fusion Center employees or any professional partner utilizing West Virginia Fusion Center services is beyond the intended scope of this oversight audit and shall be appropriately anonymized and aggregated to the extent

92 necessary to comply with reporting requirements, while ensuring the protection of sensitive
93 information, including but not limited to, sources and methods, criminal investigative activity and
94 evidence, integrity of pretrial investigative reports.

95 (l) During the oversight audit, if a determination is made that any West Virginia Fusion
96 Center employee, partner, law enforcement agency, and/or sub-contractor utilizing the West
97 Virginia Fusion Center services have intentionally disregarded federal or state statutes or rules
98 and regulations or engaged in any other any egregious, illegal, malicious and/or nefarious actions,
99 such determination shall provide adequate cause for the termination of employment from the West
100 Virginia Fusion Center. Such matters will be forwarded to the appropriate law enforcement agency
101 for full investigation and if warranted, criminal prosecution.

NOTE: The purpose of this bill is to provide for oversight authority of the West Virginia Fusion Center; to terminate the Joint Oversight Committee as of June 30, 2025; to establish the Fusion Center Joint Oversight Committee to be effective July 1, 2025; to direct the Inspector General to conduct an annual audit of the Fusion Center and to respond to questions from committee; to provide that the President and Speaker may call Fusion Center employees to testify in committee meetings; and to establish that violations of law or policy identified by audit may form basis for disciplinary action for a Fusion Center employee.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.