

CHAPTER 246

AN ACT concerning domestic security preparedness, establishing a domestic security preparedness planning group and task force and making an appropriation therefor.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.App.A:9-64 Short title.

1. This act shall be known and may be cited as the "New Jersey Domestic Security Preparedness Act."

C.App.A:9-65 Findings, declarations relative to domestic security preparedness.

2. The Legislature finds and declares:

a. The events of September 11, 2001 have refocused attention on the importance of domestic preparedness for any terrorist attack, and the utility of maintaining a select task force, comprised of representatives of State government, local emergency management and law enforcement officials, the Federal Emergency Management Agency, the Federal Bureau of Investigation, and relief organizations, for developing a coordinated plan of action to prepare for, respond to, and recover from, incidents of terrorism;

b. Because the targets of terrorist activities may not be limited to the public sector, the State also must review the preparedness of the private sector to ensure its readiness and to foster cooperation and coordination between the public and private sectors in assessing risks and developing and implementing preparedness, response and recovery strategies; and

c. It is, therefore, altogether fitting and proper, and within the public interest, to reinforce and expand the State's existing anti-terrorism efforts by integrating and enhancing intelligence gathering and preparedness efforts throughout State and local government and the private sector in New Jersey by establishing a New Jersey Domestic Security Preparedness Task Force in, but not of, the Department of Law and Public Safety, in order to maximize, enhance and effectuate coordination of the disaster preparedness and recovery resources provided through the Office of Emergency Management in the Division of State Police, the New Jersey National Guard and county and local emergency management organizations.

C.App.A:9-66 Definitions relative to domestic security preparedness.

3. For the purposes of this act:

"Planning group" means the Domestic Security Preparedness Planning Group established pursuant to section 8 of this act.

"Task force" means the Domestic Security Preparedness Task Force created pursuant to section 4 of this act.

C.App.A:9-67 Domestic Security Preparedness Task Force.

4. a. There is established in, but not of, the Department of Law and Public Safety the Domestic Security Preparedness Task Force, which shall provide Statewide coordination and supervision of all activities related to domestic preparedness for a terrorist attack. The task force shall be composed of nine members: the Superintendent of State Police or his designee, the Attorney General or his designee, the Adjutant General of Military and Veterans' Affairs or his designee, the Commissioner of Transportation or his designee, the Commissioner of Health and Senior Services or his designee, the Coordinator of the Office of Recovery and Victim Assistance, all of whom shall serve *ex officio*, and three public members appointed by the Governor, with the advice and consent of the Senate. One of the public members shall have, by education or expertise, experience in chemical or biological agents that may be used in acts of terrorism. The public members shall serve for terms of three years and shall be subject to such security screening as may be necessary or appropriate. Of the public members first appointed, one shall be appointed for a term of one year, one shall be appointed for a term of two years, and one shall be appointed for a term of three years. The Governor shall appoint a chairperson from among the members of the task force, who shall serve in that position at the pleasure of the Governor. The chairperson shall act as the State's liaison with the federal Homeland Security Council. In the event the Governor shall appoint a public member as chairperson, that appointee shall be accorded cabinet status for the purposes of effectuating the purposes of this act. The task force shall adopt a plan of operation for the carrying out of its duties, which shall be

approved by the Governor in accordance with the provisions of section 5 of this act.

b. The task force may appoint, in accordance with its plan of operation, such personnel, including attorneys, professionals in the field of terrorism and terrorism preparedness, disaster response, mitigation and recovery, and such other special consultants and experts as may be deemed necessary to carry out its duties under this act, as well as such clerical and other personnel as may be appropriate and necessary. All employees appointed pursuant to this section shall be in the unclassified service of the civil service of the State and shall be deemed confidential employees for the purposes of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.).

C.App.A:9-68 Duties of task force.

5. The primary duties of the task force shall include, but not be limited to:

a. The development of proposals to preserve, protect and sustain domestic security and to ensure a comprehensive program of domestic preparedness. The task force shall formulate proposals for operational plans relative to domestic security, using inter-agency expertise, coordination and resource planning to meet and address the need to prevent terrorist attacks, to mitigate their impact, and to prepare and plan for the various responses required in the event of a terrorist attack. In carrying out this function, the task force shall identify and assess potential risks to the domestic security and well-being of New Jersey's citizens, including risks to, and disruptions of, essential State and local infrastructures, transportation networks, public and private telecommunications and information networks, financial systems and networks, the delivery and availability of essential health care services, and the potential impact of terroristic chemical, biological and nuclear attacks or sabotage.

b. The development, implementation and management of comprehensive responses to any terrorist attack or any other technological disaster and the effective administration, management and coordination of remediation and recovery actions and responses following any such attack or disaster. In this regard, the task force shall be charged with managing responses in accordance with the State Emergency Operations Plan and serve as an all-hazards response center. The disaster remediation, recovery and response functions performed by the task force shall supplement those disaster relief functions currently performed by the Office of Emergency Management in the Division of State Police, which shall continue in its current capacity, subject to the direction and supervision of the Superintendent of State Police. The task force and Office of Emergency Management shall coordinate and consult with each other on the performance of their respective remediation, recovery and relief functions.

C.App.A:9-69 Adoption of standards, guidelines, protocols.

6. a. The task force shall adopt domestic security and preparedness standards, guidelines and protocols, subject to applicable constitutional and statutory limitations, to preserve, protect and sustain the critical assets of the State's infrastructure, which may be applicable to both public and private entities and facilities, as may be appropriate and critical to the public interest and well-being. In adopting such standards, guidelines and protocols, the task force shall not be bound by the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); however, no adoption shall take place without review by the Infrastructure Advisory Committee established pursuant to section 7 of this act and approval by the Governor. The task force may issue and implement orders to effectuate those standards, guidelines and protocols for the purposes of this act.

b. The task force may draw on the assistance of any State, county, or municipal government, independent authority or other agency or instrumentality of the State for the purposes of carrying out its duties under this act.

c. Subject to applicable constitutional and statutory limitations, the task force may seek or request and, if necessary, compel the production of such information as it deems necessary to perform its duties under this act; provided, however, that any such information that is confidential in nature, including proprietary information, shall be deemed privileged and shall not be publicly disclosed by the task force unless directly relating to the security, public safety or well-being of the citizens of this State.

C.App.A:9-70 Infrastructure Advisory Committee.

7. The task force shall establish an Infrastructure Advisory Committee to assist it in fulfilling its obligations under this act. The advisory committee shall act as a liaison to private industry throughout the State and establish ongoing communication between private industry, and any other private entity, and State and local officials regarding domestic preparedness and the respective roles and responsibilities of the public and private sectors, and shall serve as a resource to the task force and the Domestic Security Preparedness Planning Group established in section 8 of this act with respect to domestic preparedness issues facing private industry and other private entities. The advisory committee shall include representatives of gas, water, electric and utilities, nuclear facilities, and the telecommunications, transportation, health care, chemical, and pharmaceutical industries situate in or otherwise serving the citizens of this State, as well as such other industries or entities the task force deems appropriate.

C.App.A:9-71 Domestic Security Preparedness Planning Group.

8. a. There is established in the Department of Law and Public Safety the Domestic Security Preparedness Planning Group, which shall assist the task force in performing its duties under this act. In cooperation with the task force, the planning group shall develop and provide to the task force, for consideration, a coordinated plan to be included in the State Emergency Operations Plan to prepare for, respond to, mitigate and recover from incidents of terrorism.

b. The members of the planning group shall include the Director of the New Jersey Office of Emergency Management, the Adjutant General of Military and Veterans' Affairs or his designee, the Commissioner of Agriculture or his designee, the Commissioner of Community Affairs or his designee, the Commissioner of Corrections or his designee, the Commissioner of Environmental Protection or his designee, the Commissioner of Health and Senior Services or his designee, the Commissioner of Human Services, or his designee, the Commissioner of Transportation or his designee, the Executive Director of the New Jersey Transit Corporation or his designee, the State Treasurer or his designee, the New Jersey State Medical Examiner or his designee, a representative of the University of Medicine and Dentistry of New Jersey, the President of the Board of Public Utilities or his designee, a representative of the New Jersey County Emergency Management Coordinators Association, a representative of the New Jersey State Fire Chiefs Association, and a representative of the New Jersey State Police Chiefs Association. The planning group may include, to the extent such individuals may be made available for such purpose, a representative of the Federal Emergency Management Agency, a representative of the Federal Bureau of Investigation, a representative of the American Red Cross, and a representative of such other charitable groups as may be appropriate. The chairperson of the task force shall appoint the chair and vice chair of the planning group.

C.App.A:9-72 Duties of planning group.

9. a. It shall be the duty of the planning group to identify needs and resources; to explore and determine the availability of the resources available to meet those needs; to develop, coordinate and integrate proposals to afford guidance to the task force in carrying out its duties; to formulate recommendations for the development of necessary training programs; and to provide such technical assistance as may be appropriate and necessary for the task force to fulfill its duties under this act. To the extent that the planning group obtains critical or sensitive intelligence information, such information shall be confidential. The planning group, in consultation with the task force, shall obtain and maintain data on the security needs of State and local governments and shall serve as the central agency for submitting applications to the federal government for terrorism planning and equipment grants.

b. There shall be established within the planning group a Weapons of Mass Destruction Advisory Committee. For the purposes of this subsection, weapons of mass destruction shall include, but not be limited to, nuclear weapons and biological or chemical agents. The Adjutant General of Military and Veterans' Affairs, or his designee, shall chair the advisory committee. The committee shall investigate and assess the nature and extent of the risk associated with terroristic attack or sabotage involving such weapons and shall assist the planning group and task force in developing appropriate preparedness plans. In performing its duties, the advisory

committee may call upon the expertise, special training, and technological skill and capability of the New Jersey National Guard in the development, preparation, coordination and integration of the plans.

C.App.A:9-73 Noncompliance, action for relief.

10. Whenever it appears to the task force that a person knowingly has refused or failed to comply with applicable domestic security preparedness standards or furnish information required by this act, the Attorney General may institute an action or proceeding in the Superior Court for equitable and other relief, which the court shall order if necessary to preserve, protect or sustain the public safety or well-being. That relief may include assessment for the costs of any investigation, inspection, or monitoring and for the reasonable costs of preparing and litigating a case brought pursuant to this section. Any assessments imposed pursuant to this provisions of this section shall be deposited into the General Fund.

C.App.A:9-74 Records not deemed public; OPMA not applicable.

11. a. No record held, maintained or kept on file by the task force or the planning group shall be deemed to be a public record under the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) or the common law concerning access to public records. The task force and the planning group shall designate such records as may be available for public inspection when, in the sole discretion of the entity possessing the record, the inspection of those records shall not jeopardize the public safety.

b. Cognizant of the public safety and well-being of the citizens of this State and their domestic security, neither the task force nor the planning group shall be subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

C.App.A:9-75 Program of laboratory services for detection, analysis of chemical, biological agents.

12. The Commissioner of Health and Senior Services shall establish or cause to be established a program of laboratory services for the prompt and accurate detection and analysis of biological and chemical agents that may be or have been used in the commission of terroristic acts or any other technological disaster. The program shall include the capacity to detect, analyze and identify chemical agents so used during and beyond the first 24 hours of a suspected event, and to support the safe handling of potentially dangerous environmental and clinical specimens so identified.

C.App.A:9-76 Annual report by task force to Legislature.

13. The task force shall issue a report annually to the Legislature, as provided herein, as to its activities during the preceding year. The report shall include, but not be limited to, an account of the general security measures that have been implemented during the preceding year, the public and private entities that are affected by the work of the task force, and such other information as may be necessary or useful to the Legislature with respect to the task force's operations. The report shall be submitted to the President of the Senate, the Speaker of the General Assembly, the Minority Leader of the Senate, and the Minority Leader of the General Assembly, as well as the chairperson of the Senate Legislative Oversight Committee, or its successor, and the chairperson of the Assembly Regulatory Oversight Committee, or its successor. Such information as is presented in the report shall be deemed confidential.

14. a. There is appropriated from the General Fund to the Division of State Police in the Department of Law and Public Safety the sum of \$2,700,000 to support and expand the counter-terrorism unit established in the Division of State Police. Of the amount so appropriated, \$2,000,000 is allocated for operating costs, including personnel, and \$700,000 is allocated to fund the acquisition of equipment necessary for the purposes of this act.

b. There is appropriated from the General Fund to the Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety the sum of \$1,000,000 to fund enhancement of the services provided by that office pursuant to this act.

c. There is appropriated from the General Fund to the Department of Military and Veterans' Affairs the sum of \$2,000,000 to support the training and equipping of domestic emergency response teams. Of the amount so appropriated, \$1,300,000 is allocated for operating costs including personnel, and \$700,000 is allocated to fund the acquisition of equipment necessary for the purposes of this act.

d. There is appropriated from the General Fund to the Department of Health and Senior Services the sum of \$1,800,000 to fund the program of laboratory services established in section 12 of P.L.2001, c.246 (C.App.A:9-75).

e. There is appropriated from the General Fund to the Department of Health and Senior Services the sum of \$1,450,000 to fund a program of disease surveillance and epidemiological investigation.

C.App.A:9-77 Effective date, continuance of task force.

15. This act shall take effect immediately; provided, however, that on the first day of the 65th month following enactment the Governor shall give notice to the Legislature to review the conduct and performance of the Domestic Security Preparedness Task Force. If the Legislature fails to adopt, by a two-thirds majority of each House, a joint resolution finding that the task force as formulated under this act has either failed to adequately perform its duties pursuant to this act or that the task force is no longer necessary to preserve, protect and sustain the domestic security and preparedness and, therefore shall be dissolved, the task force shall continue.

Approved October 4, 2001.