

The Senate Public Safety and Homeland Security Committee offered the following substitute to SB 529:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 13 of the Official Code of Georgia Annotated, relating to contracts, Title 16  
2 of the Official Code of Georgia Annotated, relating to crimes and offenses, Title 42 of the  
3 Official Code of Georgia Annotated, relating to penal institutions, Title 43 of the Official  
4 Code of Georgia Annotated, relating to professions and businesses, Title 48 of the Official  
5 Code of Georgia Annotated, relating to revenue and taxation, and Title 50 of the Official  
6 Code of Georgia Annotated, relating to state government, so as to provide for the  
7 comprehensive regulation of persons in this state who are not lawfully present in the United  
8 States; to provide for a short title; to provide for statutory construction; to provide for  
9 procedures and requirements applicable to certain contracts or subcontracts; to provide for  
10 powers, duties, and authority of the Commissioner of Labor; to provide that it shall be  
11 unlawful to traffic a person for labor or sexual servitude; to provide for definitions; to  
12 provide for penalties; to provide that trafficking a person for labor or sexual servitude is a  
13 predicate offense under the Georgia Racketeer Influenced and Corrupt Practices Act; to  
14 provide for valid identification documents; to provide for exceptions; to create and establish  
15 the "Registration of Immigration Assistance Act"; to provide a statement of purpose and  
16 definitions; to provide for the regulation of private immigration services; to specify  
17 conditions under which certain compensation paid by a taxpayer shall be disallowed as a  
18 business expense for state income tax purposes; to provide for powers, duties, and authority  
19 of the state revenue commissioner; to provide for a definition; to provide for a legislative  
20 finding; to provide for exceptions; to provide for certain records; to provide procedures for  
21 determining nationality and immigration status of certain persons who are booked into a jail;  
22 to provide for the development of guidelines relative to such booking procedures; to provide  
23 for requirements, procedures, and conditions regarding applications for certain benefits; to  
24 provide for exceptions; to provide for the promulgation of regulations; to provide for  
25 criminal and other penalties; to provide for related matters; to provide for effective dates; to  
26 provide for applicability; to repeal conflicting laws; and for other purposes.

1 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

2 **SECTION 1.**

3 This Act shall be known and may be cited as the "Georgia Security and Immigration  
4 Compliance Act." All requirements of this Act concerning immigration or the classification  
5 of immigration status shall be construed in conformity with federal immigration law.

6 **SECTION 2.**

7 Title 13 of the Official Code of Georgia Annotated, relating to contracts, is amended by  
8 adding a new article at the end of Chapter 10, to be designated Article 3, to read as follows:

9 "ARTICLE 3

10 13-10-90.

11 As used in this article, the term 'federal work authorization program' means any of the  
12 electronic verification of work authorization programs operated by the United States  
13 Department of Homeland Security or any equivalent federal work authorization program  
14 operated by the United States Department of Homeland Security to verify information of  
15 newly hired employees, pursuant to the Immigration Reform and Control Act of 1986  
16 (IRCA), D.L. 99-603, and subsequent laws.

17 13-10-91.

18 (a) On or after July 1, 2007, every department, agency, or instrumentality of the state or  
19 a political subdivision of the state shall register and participate in the federal work  
20 authorization program as defined in this article.

21 (b) On or after July 1, 2007, no department, agency, or instrumentality of the state or a  
22 political subdivision of the state shall enter into a contract for the physical performance of  
23 services within this state unless the contractor registers and participates in the federal work  
24 authorization program as defined in this article.

25 (c) On or after July 1, 2007, no contractor who enters a contract subject to this article shall  
26 enter into a subcontract in connection with such contract for the physical performance of  
27 services within this state unless the subcontractor registers and participates in the federal  
28 work authorization program as defined in this article.

29 (d) This Code section shall be enforced without regard to race, religion, gender, ethnicity,  
30 or national origin.

1 (e) The Commissioner of Labor shall prescribe forms and promulgate rules and  
 2 regulations deemed necessary in order to administer and effectuate this Code section and  
 3 publish such rules and regulations on the department's website.

4 (f) The requirements of this Code section shall cease to apply at such time as the  
 5 Department of Homeland Security of the United States has ceased to establish and maintain  
 6 a national program for the electronic verification of work authorization as determined by  
 7 the Commissioner of Labor."

### 8 SECTION 3.

9 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 10 amended by adding a new Code section immediately following Code Section 16-5-45, to be  
 11 designated Code Section 16-5-46, to read as follows:

12 "16-5-46.

13 (a) As used in this Code section, the term:

14 (1) 'Coercion' means:

15 (A) Causing or threatening to cause bodily harm to any person or physically restraining  
 16 or confining or threatening to physically restrain or confine any person;

17 (B) Exposing or threatening to expose any fact or information that if revealed would  
 18 tend to subject a person to criminal or immigration proceedings, hatred, contempt, or  
 19 ridicule;

20 (C) Destroying, concealing, removing, confiscating, or possessing any actual or  
 21 purported passport or other immigration document, or any other actual or purported  
 22 government identification document, of any person;

23 (D) Maintaining the status or condition of a person arising from a pledge by that person  
 24 of his or her personal services as security for a debt, if the value of those services as  
 25 reasonably assessed is not applied toward the liquidation of the debt or the length and  
 26 nature of those services are not respectively limited and defined; or

27 (E) Providing a controlled substance, as such term is defined by Code Section  
 28 16-13-21, to such person.

29 (2) 'Deception' means:

30 (A) Creating or confirming another's impression of an existing fact or past event which  
 31 is false and which the accused knows or believes to be false;

32 (B) Failing to correct a false impression of an existing fact or past event which the  
 33 accused has previously created or confirmed;

34 (C) Preventing another from acquiring information pertinent to the disposition of a debt  
 35 or pledge; or

1 (D) Promising performance of services which the accused does not intend to perform  
2 or knows will not be performed.

3 (3) 'Labor servitude' means work or service of economic or financial value which is  
4 performed or provided by another person and is induced or obtained by coercion or  
5 deception.

6 (4) 'Sexual servitude' means:

7 (A) Any sexually explicit conduct as defined in paragraph (4) of subsection (a) of Code  
8 Section 16-12-100 for which anything of value is directly or indirectly given, promised  
9 to, or received by any person, which conduct is induced or obtained by coercion or  
10 deception or which conduct is induced or obtained from a person under the age of 18  
11 years; or

12 (B) Any sexually explicit conduct as defined in paragraph (4) of subsection (a) of Code  
13 Section 16-12-100 which is performed or provided by any person, which conduct is  
14 induced or obtained by coercion or deception or which conduct is induced or obtained  
15 from a person under the age of 18 years.

16 (b) A person commits the offense of trafficking a person for labor servitude when that  
17 person knowingly subjects or maintains another in labor servitude or knowingly recruits,  
18 entices, harbors, transports, provides, or obtains by any means another person for the  
19 purpose of labor servitude.

20 (c) A person commits the offense of trafficking a person for sexual servitude when that  
21 person knowingly subjects or maintains another in sexual servitude or knowingly recruits,  
22 entices, harbors, transports, provides, or obtains by any means another person for the  
23 purpose of sexual servitude.

24 (d) Any person who commits the offense of trafficking a person for labor or sexual  
25 servitude shall be guilty of a felony, and upon conviction thereof, shall be punished by  
26 imprisonment for not less than one year nor more than 20 years. Any person who commits  
27 the offense of trafficking a person for labor or sexual servitude against a person who is  
28 under the age of 18 years shall be guilty of a felony, and upon conviction thereof, shall be  
29 punished by imprisonment for not less than ten years nor more than 20 years.

30 (e) District attorneys and the Attorney General shall have concurrent authority to prosecute  
31 any criminal and civil cases arising under the provisions of this Code section and to  
32 perform any duty that necessarily appertains thereto.

33 (f)(1) All real and personal property of every kind which is used, intended for use, used  
34 in any manner to facilitate, or is derived from a violation of this Code section is  
35 contraband and forfeited to the state and no person shall have a property interest in it.

1 (2) Such property may be seized or detained in the same manner as provided in Code  
 2 Section 16-13-49 and shall not be subject to replevin, conveyance, sequestration, or  
 3 attachment.

4 (3) Within 60 days of the date of the seizure of proceeds or money pursuant to this Code  
 5 section, the district attorney or the Attorney General shall initiate forfeiture or other  
 6 proceedings as provided in Code Section 16-13-49. An owner or interest holder, as  
 7 defined by subsection (a) of Code Section 16-13-49, may establish as a defense to the  
 8 forfeiture of such property which is subject to forfeiture under this Code section the  
 9 applicable provisions of subsection (e) or (f) of Code Section 16-13-49.

10 (4) Proceeds or money which is forfeited pursuant to this Code section shall be disposed  
 11 of and distributed as provided in Code Section 16-13-49.

12 (g) Each violation of this Code section shall constitute a separate offense and shall not  
 13 merge with any other offense."

#### 14 **SECTION 4.**

15 Said title is further amended in subparagraph (A) of paragraph (9) of Code Section 16-14-3,  
 16 relating to definitions regarding the Georgia RICO (Racketeer Influenced and Corrupt  
 17 Organizations) Act, by striking "or" at the end of division (xxxix); by striking the period at  
 18 the end of division (xxxx) and inserting in its place "; or"; and by adding a new division  
 19 immediately following division (xxxx), to be designated division (xxxxi), to read as follows:

20 "(xxxxi) Code Section 16-5-46, relating to trafficking in persons for labor or sexual  
 21 servitude."

#### 22 **SECTION 5.**

23 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended  
 24 by adding a new Code section immediately following Code Section 42-4-13, to be designated  
 25 Code Section 42-4-14, to read as follows:

26 "42-4-14.

27 (a) When any person is confined on a felony charge in the jail of the county, any  
 28 municipality or a jail operated by a regional jail authority, the keeper of the jail or other  
 29 officer whose duty it is to receive persons charged with an offense shall as part of the  
 30 booking process determine the nationality of each person being confined.

31 (b) If the prisoner is a foreign national, the keeper of the jail or other officer shall make a  
 32 reasonable effort to verify that the prisoner has been lawfully admitted to the United States  
 33 and if lawfully admitted, that such lawful status has not expired. If verification of lawful  
 34 status can not be made from documents in the possession of the prisoner, verification shall  
 35 be made within 48 hours through a query to the Law Enforcement Support Center (LESC)

1 of the United States Department of Homeland Security or other office or agency designated  
 2 for that purpose by the Department of Homeland Security. If the prisoner is determined  
 3 not to be lawfully admitted to the United States, the keeper of the jail or other officer shall  
 4 notify the Department of Homeland Security.

5 (c) The Public Safety Training Center, in cooperation with the Georgia Sheriff's  
 6 Association, Department of Public Safety, Department of Economic Development,  
 7 Department of Driver Services, and Prosecuting Attorneys' Council of the State of  
 8 Georgia, shall prepare and issue guidelines and procedures which may be used by any jail  
 9 or regional jail authority to comply with the provisions of this Code section."

#### 10 **SECTION 6.**

11 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,  
 12 is amended by adding a new chapter immediately following Chapter 20 to read as follows:

#### 13 "CHAPTER 20A

14 43-20A-1.

15 This chapter shall be known and may be cited as the 'Registration of Immigration  
 16 Assistance Act.'

17 43-20A-2.

18 The purpose and intent of this chapter is to establish and enforce standards of ethics in the  
 19 profession of immigration assistance by private individuals who are not licensed attorneys.  
 20

21 43-20A-3.

22 As used in this chapter, the term:

23 (1) 'Compensation' means money, property, services, promise of payment, or anything  
 24 else of value.

25 (2) 'Employed by' means that a person is on the payroll of the employer and the employer  
 26 deducts from the employee's paycheck social security and withholding taxes or that a  
 27 person receives compensation from the employer on a commission basis or as an  
 28 independent contractor.

29 (3) 'Immigration assistance service' means any information or action provided or offered  
 30 to customers or prospective customers related to immigration matters, excluding legal  
 31 advice, recommending a specific course of legal action or providing any other assistance  
 32 that requires legal analysis, legal judgment, or interpretation of the law.

1 (4) 'Immigration matter' means any proceeding, filing, or action affecting the  
2 nonimmigrant, immigrant, or citizenship status of any person that arises under  
3 immigration and naturalization law, executive order, or presidential proclamation of the  
4 United States or any foreign country or that arises under action of the United States  
5 Citizenship and Immigration Services, the United States Department of Labor, or the  
6 United States Department of State.

7  
8 43-20A-4.

9 (a) Any person who provides or offers to provide immigration assistance service may  
10 perform only the following services:

11 (1) Completing a government agency form, requested by the customer and appropriate  
12 to the customer's needs only if the completion of that form does not involve a legal  
13 judgment for that particular matter;

14 (2) Transcribing responses to a government agency form which is related to an  
15 immigration matter but not advising a customer as to his or her answers on those forms;

16 (3) Translating information on forms to a customer and translating the customer's  
17 answers to questions posed on those forms;

18 (4) Securing for the customer supporting documents currently in existence, such as birth  
19 and marriage certificates, which may be needed to be submitted with government agency  
20 forms;

21 (5) Translating documents from a foreign language into English;

22 (6) Notarizing signatures on government agency forms, if the person performing the  
23 service is a notary public commissioned in the State of Georgia and is lawfully present  
24 in the United States;

25 (7) Making referrals, without fee, to attorneys who could undertake legal representation  
26 for a person in an immigration matter;

27 (8) Preparing or arranging for the preparation of photographs and fingerprints;

28 (9) Arranging for the performance of medical testing (including X-rays and AIDS tests)  
29 and the obtaining of reports of such test results;

30 (10) Conducting English language and civics courses; and

31 (11) Performing such other services that the office of the Secretary of State determines  
32 by rule may be appropriately performed by such persons in light of the purposes of this  
33 chapter.

34 (b) The following persons are exempt from this chapter:

35 (1) An attorney licensed to practice law in Georgia or an attorney licensed to practice law  
36 in any other state or territory of the United States or in any foreign country when acting  
37 with the approval of a judge having lawful jurisdiction over the matter;

1 (2) A legal intern, clerk, paralegal, or person in a similar position employed by and under  
2 the direct supervision of a licensed attorney meeting the requirements in paragraph (1)  
3 of this subsection and rendering immigration assistance service in the course of  
4 employment;

5 (3) A not for profit organization recognized by the Board of Immigration Appeals under  
6 8 C.F.R. 292.2(a) and employees, of those organizations accredited under 8 C.F.R.  
7 292.2(d); and

8 (4) Any organization employing or desiring to employ an alien or nonimmigrant alien,  
9 where the organization, its employees, or its agents provide advice or assistance in  
10 immigration matters to alien or nonimmigrant alien employees or potential employees  
11 without compensation from the individuals to whom such advice or assistance is  
12 provided.

13 (c) Nothing in this chapter shall regulate any business to the extent that such regulation is  
14 prohibited or preempted by federal law.

15 (d) Any person performing such services shall obtain business licenses from the office of  
16 the Secretary of State and as may be required by a local governing authority.

17 (e) Any person who provides or offers immigration assistance service and is not exempted  
18 under this chapter shall post signs at his or her place of business setting forth information  
19 in English and in every other language in which the person provides or offers to provide  
20 immigration assistance service. Each language shall be on a separate sign. Signs shall be  
21 posted in a location where the signs will be visible to customers. Each sign shall be at least  
22 12 inches by 17 inches and shall contain the following statement:

23 'I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW AND MAY NOT GIVE  
24 LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE.'

25 (f) Every person engaged in immigration assistance service who is not an attorney who  
26 advertises immigration assistance service in a language other than English, whether by  
27 radio, television, signs, pamphlets, newspapers, or other written communication, with the  
28 exception of a single desk plaque, shall include in the document, advertisement, stationery,  
29 letterhead, business card, or other comparable written material the following notice in  
30 English and the language in which the written communication appears. This notice shall  
31 be of a conspicuous size, if in writing, and shall state: 'I AM NOT AN ATTORNEY  
32 LICENSED TO PRACTICE LAW AND MAY NOT GIVE LEGAL ADVICE OR  
33 ACCEPT FEES FOR LEGAL ADVICE.' If such advertisement is by radio or television,  
34 the statement may be modified but must include substantially the same message.

35 (g) Any person who provides or offers immigration assistance service and is not exempted  
36 under this chapter shall not, in any document, advertisement, stationery, letterhead,  
37 business card, or other comparable written material, literally translate from English into

1 another language terms or titles including, but not limited to, notary public, notary,  
2 licensed, attorney, lawyer, or any other term that implies the person is an attorney.

3 (h) Violations of this chapter may result in a fine of up to \$1,000.00 per violation. A fine  
4 charged pursuant to this chapter shall not preempt or preclude additional appropriate civil  
5 or criminal penalties.

6 (i) No person engaged in providing immigration services who is not exempted under this  
7 chapter shall do any of the following:

8 (1) Accept payment in exchange for providing legal advice or any other assistance that  
9 requires legal analysis, legal judgment, or interpretation of the law;

10 (2) Refuse to return documents supplied by, prepared on behalf of, or paid for by the  
11 customer upon the request of the customer. These documents must be returned upon  
12 request even if there is a fee dispute between the immigration assistant and the customer;

13 (3) Represent or advertise, in connection with the provision assistance in immigration  
14 matters, other titles or credentials, including but not limited to 'notary public' or  
15 'immigration consultant,' that could cause a customer to believe that the person possesses  
16 special professional skills or is authorized to provide advice on an immigration matter,  
17 provided that a certified notary public may use the term 'notary public' if the use is  
18 accompanied by the statement that the person is not an attorney; the term 'notary public'  
19 may not be translated to another language;

20 (4) Provide legal advice, recommend a specific course of legal action, or provide any  
21 other assistance that requires legal analysis, legal judgment, or interpretation of the law;  
22 or

23 (5) Make any misrepresentation or false statement, directly or indirectly, to influence,  
24 persuade, or induce patronage.

25 (j) Any person who violates any provision of this chapter or the rules and regulations  
26 issued under this chapter, shall be guilty of a misdemeanor for a first offense and a high  
27 and aggravated misdemeanor for a second or subsequent offense committed within five  
28 years of a previous conviction for the same offense.

29 (k) The Secretary of State shall issue rules not inconsistent with this chapter for the  
30 implementation, administration, and enforcement of this chapter."

### 31 **SECTION 7.**

32 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
33 amended by adding two new Code sections immediately following Code Section 48-7-21,  
34 to be designated Code Sections 48-7-21.1 and 48-7-21.2, to read as follows:

1 "48-7-21.1.

2 (a) As used in this Code section, the term 'valid identification and employment  
3 authorization document' means any valid documents included on the list of acceptable  
4 documents, for persons 18 years of age or older, for the Employment Eligibility  
5 Verification Form I-9 of the federal Department of Homeland Security except as otherwise  
6 provided in this Code section.

7 (b) A driver's license or identification card issued by any state, which, on or after July 1,  
8 2006, authorized such driver's license or identification card to be issued to persons not  
9 lawfully present in the United States shall not be accepted as valid employment authorized  
10 documentation. A travel or identification document issued by a foreign government shall  
11 not be accepted as a valid employment authorized documentation unless such document  
12 has been recognized by the United States Department of Homeland Security as evidence  
13 of alien registration pursuant to federal law.

14 48-7-21.2.

15 (a) As used in this Code section, the term 'valid identification and employment  
16 authorization document' means any document included on the list of acceptable  
17 documents, for persons 18 years of age or older, for the Employment Eligibility  
18 Verification Form I-9 of the federal Department of Homeland Security except as otherwise  
19 provided in this Code section.

20 (b)(1) On or after January 1, 2008, no payment of compensation to an individual of  
21 \$600.00 or more per annum, whether in the form of wages, salary, payment for labor,  
22 benefits, in-kind exchange, or expenses, may be claimed and allowed as a deductible  
23 business expense for state income tax purposes by a taxpayer unless the person to whom  
24 such compensation was paid provides to the taxpayer valid identification and  
25 employment authorization documents. The provisions of this paragraph shall apply  
26 whether or not an Internal Revenue Service form 1099 is issued in conjunction with the  
27 payment.

28 (2) The state revenue commissioner is authorized to prescribe forms and promulgate  
29 rules and regulations deemed necessary in order to administer and effectuate this  
30 subsection.

31 (c) This Code section shall not apply to any business domiciled in this state which is  
32 exempt from compliance with federal employment verification procedures under federal  
33 law which makes the employment of unauthorized aliens unlawful.

34 (d) This Code section shall not apply to any business in this state which uses an electronic  
35 federal work authorization program operated by the Department of Homeland Security of  
36 the United States."



1 to be set forth, policies regarding postsecondary benefits that comply with all federal law  
2 including but not limited to public benefits as described in 8 U.S.C. Section 1611, 1621,  
3 or 1623.

4 (d) Verification of lawful presence in the United States by the agency or political  
5 subdivision required to make such verification shall occur as follows:

6 (1) The applicant must execute an affidavit that he or she is a United States citizen or  
7 national 18 years of age or older; or

8 (2) The applicant must execute an affidavit that he or she is an alien 18 years of age or  
9 older lawfully present in the United States.

10 (e) For any applicant who has executed an affidavit that he or she is an alien lawfully  
11 present in the United States, eligibility for benefits shall be made through the Systematic  
12 Alien Verification of Entitlement (SAVE) program operated by the United States  
13 Department of Homeland Security or a successor program designated by the Department  
14 of Homeland Security. Until such eligibility verification is made, the affidavit may be  
15 presumed to be proof of lawful presence for the purposes of this Code section.

16 (f) Any person who knowingly and willfully executes an affidavit pursuant to  
17 subsection (d) of this Code section which contains a false statement shall be guilty of a  
18 felony and upon conviction thereof shall be punished by a fine of not more than \$1,000.00,  
19 by imprisonment for not more than five years, or both.

20 (g) Agencies of this state and political subdivisions thereof may adopt variations to the  
21 requirements of this Code section to improve efficiency or reduce delay in the verification  
22 process or to provide for adjudication of unique individual circumstances where the  
23 verification procedures in this Code section would impose unusual hardship on a legal  
24 resident of Georgia.

25 (h) It shall be unlawful for any agency of this state or a political subdivision thereof to  
26 provide any state, local, or federal benefit, as defined in 8 U.S.C. Section 1621 or 8 U.S.C.  
27 Section 1611, in violation of this Code section. Each state agency or department which  
28 administers any program of state or local public benefits shall provide an annual report  
29 with respect to its compliance with this Code section.

30 (i) Any and all errors and significant delays by SAVE shall be reported to the Department  
31 of Homeland Security and to the Secretary of State which will monitor SAVE and its  
32 verification application errors and significant delays and report yearly on such errors and  
33 significant delays to ensure that the application of SAVE is not wrongfully denying  
34 benefits to legal residents of Georgia.

35 (j) Notwithstanding subsection (f) of this Code section any applicant for federal benefits  
36 as defined in 8 U.S.C. Section 1611 or state or local benefits as defined in 8 U.S.C. Section  
37 1621 shall not be guilty of any crime for executing an affidavit attesting to lawful presence

1 in the United States that contains a false statement if said affidavit is not required by this  
2 Code section."

3 **SECTION 9.**

4 (a) Except as otherwise provided in this section, this Act shall become effective on July 1,  
5 2006.

6 (b) Sections 3 and 4 of this Act shall become effective on July 1, 2006, and shall not apply  
7 to any offense committed prior to July 1, 2006.

8 **SECTION 10.**

9 All laws and parts of laws in conflict with this Act are repealed.