

The House Committee on Judiciary Non-civil offers the following substitute to SB 529:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Titles 7, 13, 16, 42, 43, 48, and 50 of the Official Code of Georgia Annotated,  
2 relating to banking and finance, contracts, crimes and offenses, penal institutions, professions  
3 and businesses, revenue and taxation, and state government, respectively, so as to provide  
4 for the comprehensive regulation of persons in this state who are not lawfully present in the  
5 United States; to provide for a short title; to provide for statutory construction; to provide for  
6 an illegal immigrant fee with respect to money received for wire transmission; to provide for  
7 a short title; to provide for procedures, conditions, and limitations; to provide for exceptions;  
8 to provide for legislative intent; to prohibit certain conduct to avoid or evade such fee; to  
9 provide for criminal penalties; to provide for powers, duties, and authority of the  
10 commissioner of banking and finance with respect to the foregoing; to provide for  
11 definitions; to provide for procedures and requirements applicable to certain contracts or  
12 subcontracts; to provide for powers, duties, and authority of the Commissioner of Labor; to  
13 provide that it shall be unlawful to traffic a person for labor or sexual servitude; to provide  
14 for valid identification documents; to provide for exceptions; to create and establish the  
15 "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 legislative finding; to provide for  
20 exceptions; to provide for certain records; to provide procedures for determining nationality  
21 and immigration status of certain persons who are booked into a jail; to provide for the  
22 development of guidelines relative to such booking procedures; to provide for requirements,  
23 procedures, and conditions regarding applications for certain benefits; to provide for  
24 exceptions; to provide for the promulgation of regulations; to provide for criminal and other  
25 penalties; to provide for related matters; to provide for effective dates; to provide for  
26 applicability; to repeal conflicting laws; and for other purposes.

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 529 (SUB)



1 (f) It shall be unlawful for any person to transmit money on behalf of any person in order  
 2 to avoid or evade the fee required under this Code section. Any person who violates this  
 3 subsection shall, upon conviction thereof for a first offense, be guilty of a misdemeanor;  
 4 for a second or subsequent offense, such person shall, upon conviction thereof, be guilty  
 5 of a misdemeanor of a high and aggravated nature.

6 (g) The commissioner shall provide by rule or regulation for the implementation of this  
 7 Code section including, but not limited to, any appropriate administrative actions or fines  
 8 for knowing and willful violations of this Code section."

9 **SECTION 3.**

10 Title 13 of the Official Code of Georgia Annotated, relating to contracts, is amended by  
 11 adding two new articles at the end of Chapter 10, to be designated Articles 3 and 4, to read  
 12 as follows:

13 "ARTICLE 3

14 13-10-90.

15 As used in this article, the term:

16 (1) 'Commissioner' means the Commissioner of the Georgia Department of Labor.

17 (2) 'Federal work authorization program' means any of the electronic verification of work  
 18 authorization programs operated by the United States Department of Homeland Security  
 19 or any equivalent federal work authorization program operated by the United States  
 20 Department of Homeland Security to verify information of newly hired employees,  
 21 pursuant to the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603.

22 (3) 'Public employer' means every department, agency, or instrumentality of the state or  
 23 a political subdivision of the state.

24 (4) 'Subcontractor' includes a subcontractor, contract employee, staffing agency, or any  
 25 contractor regardless of its tier.

26 13-10-91.

27 (a) On or after July 1, 2007, every public employer shall register and participate in the  
 28 federal work authorization program to verify information of all new employees.

29 (b)(1) No public employer shall enter into a contract for the physical performance of  
 30 services within this state unless the contractor registers and participates in the federal  
 31 work authorization program to verify information of all new employees.

32 (2) No contractor or subcontractor who enters a contract with a public employer shall  
 33 enter into such a contract or subcontract in connection with the physical performance of

1 services within this state unless the contractor or subcontractor registers and participates  
 2 in the federal work authorization program to verify information of all new employees.

3 (3) Paragraphs (1) and (2) of this subsection shall apply as follows:

4 (A) On or after July 1, 2007, with respect to public employers, contractors, or  
 5 subcontractors of 500 or more employees;

6 (B) On or after July 1, 2008, with respect to public employers, contractors, or  
 7 subcontractors of 100 or more employees; and

8 (C) On or after July 1, 2009, with respect to all public employers, contractors, or  
 9 subcontractors.

10 (c) This Code section shall be enforced without regard to race, religion, gender, ethnicity,  
 11 or national origin.

12 (d) The Commissioner shall prescribe forms and promulgate rules and regulations deemed  
 13 necessary in order to administer and effectuate this Code section and publish such rules and  
 14 regulations on the Georgia Department of Labor's website.

#### 15 ARTICLE 4

16 13-10-110.

17 As used in this article, the term:

18 (1) 'Commissioner' means the Commissioner of the Georgia Department of Labor.

19 (2) 'Public employer' means every department, agency, or instrumentality of the state or  
 20 a political subdivision of the state.

21 (3) 'State work authorization program' refers to the Georgia Immigrant Worker  
 22 Verification System (GIWVS) to be established by the Commissioner and to be  
 23 performed by the Georgia Department of Labor utilizing an electronic verification of  
 24 work authorization now or hereafter available to the Georgia Department of Labor by or  
 25 through the United States Department of Homeland Security, the Social Security  
 26 Administration, or other federal agency to verify work eligibility information of  
 27 employees, consistent with the requirements of the Immigration Reform and Control Act  
 28 of 1986 (IRCA), D.L. 99-603. The Commissioner shall establish the Georgia Immigrant  
 29 Worker Verification System no later than July 1, 2006.

30 (4) 'Subcontractor' includes a subcontractor, contract employee, staffing agency, or any  
 31 contractor regardless of its tier.

32 13-10-111.

33 (a) On or after July 1, 2007, every public employer shall be subject to the requirements of  
 34 the state work authorization program.

1 (b)(1) No public employer shall enter into a contract for the physical performance of  
2 services within this state unless the contractor is in compliance with the state work  
3 authorization program.

4 (2) No contractor or subcontractor who enters a contract with a public employer shall  
5 enter into such a contract or subcontract in connection with such contract for the physical  
6 performance of services within this state unless the contractor and subcontractor is in  
7 compliance with the state work authorization program.

8 (3) Paragraphs (1) and (2) of this subsection shall apply as follows:

9 (A) On or after July 1, 2007, with respect to public employers, contractors, or  
10 subcontractors of 500 or more employees;

11 (B) On or after July 1, 2008, with respect to public employers, contractors, or  
12 subcontractors of 100 or more employees; and

13 (C) On or after July 1, 2009, with respect to all public employers, contractors, or  
14 subcontractors.

15 (c) This Code section shall be enforced without regard to race, religion, gender, ethnicity,  
16 or national origin.

17 (d) Public employers, contractors, and subcontractors shall provide to authorized  
18 representatives of the Commissioner, upon request, such information and documents  
19 regarding each employee, contractor, subcontractor, or other worker as will permit the  
20 Commissioner to verify the eligibility to work in this state of each individual performing  
21 services for such public employer, contractor, or subcontractor. Such public employers,  
22 contractors, and subcontractors shall keep true and accurate records containing such  
23 information as the Commissioner may prescribe. Such records shall be open to inspection  
24 in this state and shall be subject to being copied by the Commissioner or an authorized  
25 representative of the Commissioner at any time and as often as may be necessary. Such  
26 public employers, contractors, and subcontractors shall file such reports as the  
27 Commissioner may prescribe. The Commissioner or an authorized representative of the  
28 Commissioner may require from any employing unit, as that term is defined in Code  
29 Section 34-8-34 with respect to the administration of the unemployment insurance  
30 program, any sworn or unsworn reports deemed necessary for the effective administration  
31 of this article.

32 (e) The Georgia Department of Labor shall perform verifications of work eligibility and  
33 shall notify such public employers, contractors, or subcontractors when work eligibility  
34 cannot be verified.

35 (f) In the discharge of the duties imposed by this article, the Commissioner and his or her  
36 duly authorized representatives shall have all the powers referred to in Code Section  
37 34-8-88 with respect to the administration of the unemployment insurance program.

1 (g) The Georgia Department of Labor shall provide state-wide education and training  
 2 sufficient to assist public employers, contractors, and subcontractors in complying with the  
 3 requirements of this article.

4 (h) The Commissioner shall prescribe forms and promulgate rules and regulations deemed  
 5 necessary in order to administer and effectuate this Code section and publish such rules and  
 6 regulations on the Georgia Department of Labor's website."

7 **SECTION 4.**

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

11 "16-5-46.

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

13 (1) 'Coercion' means:

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

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

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

22 (D) Providing a controlled substance, as such term is defined by Code Section  
 23 16-13-21, to such person.

24 (2) 'Deception' means:

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

27 (B) Maintaining the status or condition of a person arising from a pledge by that person  
 28 of his or her personal services as security for a debt, if the value of those services as  
 29 reasonably assessed is not applied toward the liquidation of the debt or the length and  
 30 nature of those services are not respectively limited and defined, or preventing a person  
 31 from acquiring information pertinent to the disposition of such debt; or

32 (C) Promising benefits or the performance of services which the accused does not  
 33 intend to deliver or perform or knows will not be delivered or performed. Evidence of  
 34 failure to deliver benefits or perform services standing alone shall not be sufficient to  
 35 authorize a conviction under this Code section.

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

4 (4) 'Sexual servitude' means:

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

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

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

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

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

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

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

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

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

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

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

11 (h) A corporation may be prosecuted under this Code section, or subject to the provisions  
12 of subsection (f) of this Code section, only for an act or omission constituting a crime under  
13 this Code as provided in Code Section 16-2-22."

#### 14 SECTION 5.

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

18 "42-4-14.

19 (a) When any person charged with a felony or with driving under the influence pursuant  
20 to Code Section 40-6-391 is confined, for any period, in the jail of the county, any  
21 municipality or a jail operated by a regional jail authority, a reasonable effort shall be made  
22 to determine the nationality of the person so confined.

23 (b) If the prisoner is a foreign national, the keeper of the jail or other officer shall make a  
24 reasonable effort to verify that the prisoner has been lawfully admitted to the United States  
25 and if lawfully admitted, that such lawful status has not expired. If verification of lawful  
26 status can not be made from documents in the possession of the prisoner, verification shall  
27 be made within 48 hours through a query to the Law Enforcement Support Center (LESC)  
28 of the United States Department of Homeland Security or other office or agency designated  
29 for that purpose by the United States Department of Homeland Security. If the prisoner is  
30 determined not to be lawfully admitted to the United States, the keeper of the jail or other  
31 officer shall notify the United States Department of Homeland Security.

32 (c) Nothing in this Code section shall be construed to deny a person bond or from being  
33 released from confinement when such person is otherwise eligible for release.

34 (d) The Georgia Sheriffs Association shall prepare and issue guidelines and procedures  
35 used to comply with the provisions of this Code section."



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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (3) A not for profit organization recognized by the Board of Immigration Appeals under  
33 8 C.F.R. 292.2(a) and employees, of those organizations accredited under 8 C.F.R.  
34 292.2(d); and

35 (4) Any organization employing or desiring to employ an alien or nonimmigrant alien,  
36 where the organization, its employees, or its agents provide advice or assistance in  
37 immigration matters to alien or nonimmigrant alien employees or potential employees

1 without compensation from the individuals to whom such advice or assistance is  
2 provided.

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

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

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

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

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

25 (g) Any person who provides or offers immigration assistance service and is not exempted  
26 under this chapter shall not, in any document, advertisement, stationery, letterhead,  
27 business card, or other comparable written material, literally translate from English into  
28 another language terms or titles including, but not limited to, notary public, notary,  
29 licensed, attorney, lawyer, or any other term that implies the person is an attorney.

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

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

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

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

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

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

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

16 (j) Any person who violates any provision of this chapter shall be guilty of a misdemeanor  
17 for a first offense and a high and aggravated misdemeanor for a second or subsequent  
18 offense committed within five years of a previous conviction for the same offense.

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

## 21 SECTION 7.

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

25 "48-7-21.1.

26 (a) As used in this Code section, the term 'identification and employment authorization  
27 document' means any unexpired documents included on the list of acceptable documents,  
28 for persons 18 years of age or older, for the Employment Eligibility Verification Form I-9  
29 of the United States Department of Homeland Security except as otherwise provided in this  
30 Code section.

31 (b) A travel or identification document issued by a foreign government shall not be  
32 accepted as a valid employment authorized documentation unless such document has been  
33 recognized by the United States Department of Homeland Security as evidence of alien  
34 registration pursuant to federal law.

1 48-7-21.2.

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

7 (b)(1) On or after January 1, 2008, no payment of compensation for physical  
8 performance of services within this state to an individual of \$600.00 or more per annum,  
9 whether in the form of wages, salary, payment for labor, benefits, in-kind exchange, or  
10 expenses, may be claimed and allowed as a deductible business expense for state income  
11 tax purposes by a taxpayer unless the person to whom such compensation was given  
12 provides to the taxpayer identification and employment authorization documents. The  
13 provisions of this paragraph shall apply whether or not an Internal Revenue Service Form  
14 1099 is issued in conjunction with the payment.

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

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

21 (d) This Code section shall not apply to any individual hired by the taxpayer prior to  
22 January 1, 2008.

23 (e) This Code section shall not apply to any taxpayer where the individual being paid is  
24 not directly compensated or employed by said taxpayer.

25 (f) This Code section shall not apply to compensation paid for physical performance of  
26 services within this state to any individual who holds a valid license issued by this state,  
27 or an agency, department or division thereof."

## 28 **SECTION 8.**

29 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
30 by adding a new chapter at the end thereof, to be designated Chapter 36, to read as follows:

### 31 "CHAPTER 36

32 50-36-1.

33 (a) Except as provided in subsection (c) of this Code section or where exempted by federal  
34 law, on or after July 1, 2007, every agency or a political subdivision of this state shall

1 verify the lawful presence in the United States of any natural person 18 years of age or  
2 older who has applied for state or local public benefits, as defined in 8 U.S.C. Section  
3 1621, or for federal public benefits, as defined in 8 U.S.C. Section 1611, that is  
4 administered by an agency or a political subdivision of this state.

5 (b) This Code section shall be enforced without regard to race, religion, gender, ethnicity,  
6 or national origin.

7 (c) Verification of lawful presence under this Code section shall not be required:

8 (1) For any purpose for which lawful presence in the United States is not required by  
9 law, ordinance, or regulation;

10 (2) For assistance for health care items and services that are necessary for the treatment  
11 of an emergency medical condition, as defined in 42 U.S.C. Section 1396b(v)(3), of the  
12 alien involved and are not related to an organ transplant procedure;

13 (3) For short-term, noncash, in-kind emergency disaster relief;

14 (4) For public health assistance for immunizations with respect to immunizable diseases  
15 and for testing and treatment of symptoms of communicable diseases whether or not such  
16 symptoms are caused by a communicable disease; or

17 (5) For programs, services, or assistance such as soup kitchens, crisis counseling and  
18 intervention, and short-term shelter specified by the United States Attorney General, in  
19 the United States Attorney General's sole and unreviewable discretion after consultation  
20 with appropriate federal agencies and departments, which:

21 (A) Deliver in-kind services at the community level, including through public or  
22 private nonprofit agencies;

23 (B) Do not condition the provision of assistance, the amount of assistance provided,  
24 or the cost of assistance provided on the individual recipient's income or resources; and

25 (C) Are necessary for the protection of life or safety.

26 (6) For prenatal care; or

27 (7) For postsecondary education, whereby the Board of Regents of the University System  
28 of Georgia or the State Board of Technical and Adult Education shall set forth, or cause  
29 to be set forth, policies regarding postsecondary benefits that comply with all federal law  
30 including but not limited to public benefits as described in 8 U.S.C. Section 1611, 1621,  
31 or 1623.

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

34 (1) The applicant must execute an affidavit that he or she is a United States citizen or  
35 legal permanent resident 18 years of age or older; or

1 (2) The applicant must execute an affidavit that he or she is a qualified alien or  
2 nonimmigrant under the federal Immigration and Nationality Act 18 years of age or older  
3 lawfully present in the United States.

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

10 (f) Any person who knowingly and willfully makes a false, fictitious, or fraudulent  
11 statement of representation in an affidavit executed pursuant to subsection (d) of this Code  
12 section shall be guilty of a violation of Code Section 16-10-20.

13 (g) Agencies or political subdivisions of this state may adopt variations to the requirements  
14 of this Code section to improve efficiency or reduce delay in the verification process or to  
15 provide for adjudication of unique individual circumstances where the verification  
16 procedures in this Code section would impose unusual hardship on a legal resident of  
17 Georgia.

18 (h) It shall be unlawful for any agency or a political subdivision of this state to provide any  
19 state, local, or federal benefit, as defined in 8 U.S.C. Section 1621 or 8 U.S.C. Section  
20 1611, in violation of this Code section. Each state agency or department which administers  
21 any program of state or local public benefits shall provide an annual report with respect to  
22 its compliance with this Code section.

23 (i) Any and all errors and significant delays by SAVE shall be reported to the United  
24 States Department of Security and to the Secretary of State which will monitor SAVE and  
25 its verification application errors and significant delays and report yearly on such errors and  
26 significant delays to ensure that the application of SAVE is not wrongfully denying  
27 benefits to legal residents of Georgia.

28 (j) Notwithstanding subsection (f) of this Code section any applicant for federal benefits  
29 as defined in 8 U.S.C. Section 1611 or state or local benefits as defined in 8 U.S.C. Section  
30 1621 shall not be guilty of any crime for executing an affidavit attesting to lawful presence  
31 in the United States that contains a false statement if said affidavit is not required by this  
32 Code section."

**SECTION 9.**

- 1
- 2 (a) Except as otherwise provided in this section, this Act shall become effective on July 1,  
3 2006.
- 4 (b) Article 4 of Chapter 10 of Title 13 of the Official Code of Georgia Annotated as enacted  
5 by Section 3 of this Act shall become effective only if funds are specially appropriated for  
6 purposes of said Article 4 in an appropriations Act making specific reference to said Article  
7 4 as enacted by this Act and shall become effective when funds so appropriated become  
8 available for expenditure.
- 9 (c) Section 4 of this Act shall become effective on July 1, 2006, and shall not apply to any  
10 offense committed prior to July 1, 2006.

**SECTION 10.**

- 11
- 12 All laws and parts of laws in conflict with this Act are repealed.