

The House Committee on Public Safety & Homeland Security offers the following substitute to HB 1141:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 16 of Title 15 of the Official Code of Georgia Annotated,
2 relating to general provisions relative to sheriffs, so as to create the Georgia Sheriffs'
3 Cooperative Authority as a body corporate and politic, an instrumentality of the state, and
4 a public corporation; to provide for the purposes of the authority, which purposes shall
5 include the provision of alternative and easier accessibility to public records in the custody
6 of each sheriff's office throughout this state; to provide accessibility to sheriffs' records free
7 of charge to law enforcement agencies and other state agencies; to provide easier access to
8 sheriffs' records for the general public at a reasonable fee; to establish a state-wide
9 computerized accessible repository of sheriffs' public records not only for those offices that
10 are currently able to provide such an accessible repository but also and, in particular, for
11 those counties with fewer economic or technical resources; to provide for the voluntary
12 collection of sheriffs' records; to make available on a state-wide basis services and resources
13 to the offices of the sheriff; to provide a collective representative body better able to
14 negotiate favorable provisions for contractual services for sheriff; to provide for the return
15 of funds collected to offset costs of operation and of providing training for sheriffs' offices
16 throughout this state; to provide for the membership of the authority; to provide for the duties
17 of the authority; to provide for legislative oversight of fees charged; to provide for tax
18 exempt status of the authority; to provide for jurisdiction of actions brought against the
19 authority; to provide that moneys received by the authority shall be held as trust funds; to
20 provide for related matters; to provide for an effective date; to repeal conflicting laws; and
21 for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

24 Article 1 of Chapter 16 of Title 15 of the Official Code of Georgia Annotated, relating to
25 general provisions relative to sheriffs, is amended by adding a new Code section to read as
26 follows:

H. B. 1141 (SUB)

27 "15-16-29.

28 (a)(1) There is established the Georgia Sheriffs' Cooperative Authority as a body
29 corporate and politic, an instrumentality of the state, and a public corporation; and by that
30 name, the authority may contract and be contracted with and bring and defend actions.

31 (2) As used in this Code section, the term 'authority' means the Georgia Sheriffs'
32 Cooperative Authority.

33 (3) The purpose of the authority shall be to establish a representative group able to act
34 on behalf of those sheriffs throughout this state who voluntarily participate in such group
35 and to provide on their behalf for:

36 (A) The development, acquisition, and distribution of a public records management
37 system and a case records management system. Such systems shall contain only
38 records which are provided with the written consent of the submitting agency or office;

39 (B) The maintenance of a state-wide public safety information data base which shall be
40 made available to the public at a reasonable fee and made available to all law
41 enforcement agencies and state agencies free of charge; provided, however, that
42 nonpublic case file information or other information not subject to public disclosure
43 shall only be made available to approved law enforcement agencies;

44 (C) Consistent with the criminal justice laws of this state, the development of uniform
45 electronic monitoring services contracts which may be offered to local sheriffs' offices
46 in order to facilitate the cost-effective availability of such monitoring services,
47 particularly to areas of this state with fewer economic resources; and

48 (D) To develop, acquire, and distribute services, supplies, and materials, including
49 lifesaving equipment and training, for sheriffs of this state, on such terms and
50 conditions as may be determined to be in the best interests of the operation of the
51 offices of the sheriff, local government, and this state, in light of the following factors:

52 (i) The public interest in providing cost-efficient and computerized access to record
53 management systems, public records information, and mass notification of public
54 safety resources in a more effective, faster, and uniform manner;

55 (ii) Cost savings to local government and the state through efficiency in the provision
56 of record management systems, information, and public safety related data bases;

57 (iii) Fair and adequate compensation to local governments for costs incurred in the
58 operation of the offices of sheriffs; and

59 (iv) The degree to which information or a state-wide contract for equipment or
60 services may assist law enforcement agencies in preventing crime, solving crime, and
61 protecting the lives of peace officers.

62 (b) All information provided to the authority shall be done on a voluntary basis. The
63 authority shall not be authorized to mandate the provision of any documents, information,

64 or collection of data from any source or entity. No records of any agency shall be placed
65 into the authority's data base without such agency's written permission. The authority shall
66 prescribe the manner and format in which information shall be submitted to the authority.
67 (c) The authority shall be the sole owner of information compiled or developed through
68 any function performed or any program or system administered by, or on behalf of, the
69 authority such that no private person or public entity shall be authorized to sell or otherwise
70 exercise control over the data collected and made available by the authority. Nothing
71 contained in this Code section shall be construed so as to prevent any agency, department,
72 or other governmental entity from collecting, selling, or disseminating data as otherwise
73 provided by law, and, specifically, the Department of Transportation shall continue to be
74 authorized to collect, sell, and disseminate accident reports as provided in Article 2 of
75 Chapter 9 of Title 40.
76 (d) The authority shall be authorized to establish reasonable fees for records provided to
77 the public as provided in paragraph (6) of subsection (l) of this Code section. The data
78 base shall be available to law enforcement agencies and state agencies free of charge;
79 provided, however, that the authority shall not be required to incur any additional expense
80 as a result of an agency's request for or access to the data base.
81 (e) Only that information subject to release pursuant to the inspection of public records
82 provisions in Article 4 of Chapter 18 of Title 50 shall be released or provided to the public.
83 (f) The authority shall consist of seven members as follows:
84 (1) Two members to be appointed by the Governor who shall be duly elected Georgia
85 sheriffs. One of such members shall serve for an initial term of one year beginning
86 January 1, 2013, and until his or her respective successor is appointed, and one of such
87 members shall serve for an initial term of two years beginning January 1, 2013, and until
88 his or her respective successor is appointed. Following the initial term, such members
89 shall serve for terms of two years;
90 (2) One member to be appointed by the Lieutenant Governor who shall be a duly elected
91 Georgia sheriff. Such member shall serve for an initial term of two years beginning
92 January 1, 2013, and until his or her respective successor is appointed. Following the
93 initial term, such member shall serve for terms of two years;
94 (3) One member to be appointed by the Speaker of the House of Representatives who
95 shall be a duly elected Georgia sheriff. Such member shall serve for an initial term of one
96 year beginning January 1, 2013, and until his or her respective successor is appointed.
97 Following the initial term, such member shall serve for terms of two years;
98 (4) One member to be appointed by the Governor who shall be a member of the
99 executive board of the Georgia Sheriffs' Association or a similar state-wide organization
100 of sheriffs. Such member shall serve for an initial term of one year beginning January 1,

101 2013, and until his or her respective successor is appointed. Following the initial term,
 102 such member shall serve for terms of two years;

103 (5) One member to be appointed by the Governor who shall be a duly elected county
 104 commissioner to serve for terms of two years, beginning January 1, 2013, and until such
 105 member's respective successor is appointed; and

106 (6) One member to be appointed by the Governor who shall be a duly elected superior
 107 court judge to serve for terms of two years, beginning January 1, 2013, and until such
 108 member's respective successor is appointed.

109 (g) Each member of the authority may be authorized by the authority to receive an expense
 110 allowance and reimbursement from funds of the authority in the same manner as provided
 111 for in Code Section 45-7-21.

112 (h) Four members of the authority shall constitute a quorum, and the affirmative votes of
 113 four members of the authority shall be required for any action to be taken by the authority.

114 (i) The authority may, in its discretion, appoint an executive director as the administrative
 115 head of the authority and shall set his or her salary. The executive director, with the
 116 concurrence and approval of the authority, shall hire officers, agents, and employees;
 117 prescribe their duties, responsibilities, and qualifications and set their salaries; and perform
 118 such other duties as may be prescribed by the authority. Such officers, agents, and
 119 employees shall serve at the pleasure of the executive director.

120 (j) The authority may promulgate rules and regulations for its own government and for
 121 discharging its duties as may be permitted or required by law or applicable rules and
 122 regulations.

123 (k) The Attorney General shall provide legal services for the authority in the same manner
 124 provided for in Code Sections 45-15-13 through 45-15-16.

125 (l) The authority shall have the following powers:

126 (1) To have a seal and alter the same at its pleasure;

127 (2) To make and execute contracts, lease agreements, and all other instruments necessary
 128 or convenient to exercise the duties of the authority or to further the public purpose for
 129 which the authority is created;

130 (3) To acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real or
 131 personal property of every kind and character, or any interest therein, in furtherance of
 132 the public purpose of the authority;

133 (4) To apply for and to accept any gifts or grants or loan guarantees or loans of funds or
 134 property or financial or other aid in any form from the federal government or any agency
 135 or instrumentality thereof, or from the state or any agency or instrumentality thereof, or
 136 from any other source for any or all of the purposes specified in this Code section and to

137 comply, subject to the provisions of this Code section, with the terms and conditions
138 thereof;

139 (5) To contract with state agencies or any local government for the use by the authority
140 of any property, facilities, or services of the state or any such state agency or local
141 government or for the use by any state agency or local government of any facilities or
142 services of the authority; and such state agencies and local governments shall be
143 authorized to enter into such contracts;

144 (6) To fix and collect fees and charges for data, media, and other services furnished by
145 it to any private individual or private entity; provided, however, that a schedule of
146 proposed fees and charges shall be filed with the Clerk of the House of Representatives
147 and the Secretary of the Senate by January 2, 2013, and annually thereafter for such
148 action as the General Assembly may desire to take thereon, if any;

149 (7) To deposit or otherwise invest funds held by it in any state depository or in any
150 investment which is authorized for the investment of proceeds of state general obligation
151 bonds and to use for its corporate purposes or redeposit or reinvest interest earned on
152 such funds;

153 (8) To exercise any power granted by the laws of this state to public or private
154 corporations which is not in conflict with the public purpose of the authority; and

155 (9) To do all things necessary or convenient to carry out the powers conferred by this
156 Code section and to carry out such duties and activities as are specifically imposed upon
157 the authority by law.

158 (m) The creation of the authority and the carrying out of its corporate purposes are in all
159 respects for the benefit of the people of this state and are public purposes, and in no event
160 shall the authority assess a fee against a sheriff's office, state agency, or local government
161 of this state for access to the information compiled by the authority. The authority shall
162 perform an essential government function in the exercise of the powers conferred upon it
163 by this Code section. The authority shall not be required to pay taxes or assessments upon
164 any property acquired or under its jurisdiction, control, possession, or supervision.

165 (n) Any action against the authority shall be brought in the superior court of the county in
166 which its primary office is situated, and such court shall have exclusive, original
167 jurisdiction of such actions; provided, however, that actions seeking equitable relief may
168 be brought in the county of residence of any member of the authority.

169 (o) All money received by the authority pursuant to this Code section shall be deemed to
170 be trust funds to be held and applied solely as provided in this Code section.

171 (p) The provisions of this Code section shall be deemed to provide an additional and
172 alternative method for doing things authorized by this Code section and shall be regarded

173 as supplemental and additional to powers conferred by the Constitution and laws of the
174 State of Georgia and shall not be regarded as in derogation of any powers now existing."

175 **SECTION 2.**

176 This Act shall become effective upon its approval by the Governor or upon its becoming law
177 without such approval.

178 **SECTION 3.**

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