

Senate Bill 411

By: Senators Grant of the 25th, Mullis of the 53rd, Hamrick of the 30th, Williams of the 19th, Goggans of the 7th and others

AS PASSED SENATE

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:

S. B. 411

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 owner of information compiled or developed through any
68 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 make available or distribute the data collected and made available by the authority.
71 Nothing contained in this Code section shall be construed so as to prevent any agency,
72 department, or other governmental entity from collecting, selling, or disseminating data as
73 otherwise provided by law, and, specifically, the Department of Transportation shall
74 continue to be authorized to collect, sell, and disseminate accident reports as provided in
75 Article 2 of 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 (1) 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 Nothing contained herein shall be construed so as to modify or conflict with these open
84 records provisions, and any information not subject to public inspection under federal or
85 state law shall be confidential and not subject to public disclosure.
86 (f) The authority shall consist of seven members as follows:
87 (1) Two members to be appointed by the Governor who shall be duly elected Georgia
88 sheriffs. One of such members shall serve for an initial term of one year beginning
89 January 1, 2013, and until his or her respective successor is appointed, and one of such
90 members shall serve for an initial term of two years beginning January 1, 2013, and until
91 his or her respective successor is appointed. Following the initial term, such members
92 shall serve for terms of two years;
93 (2) One member to be appointed by the Lieutenant Governor who shall be a duly elected
94 Georgia sheriff. Such member shall serve for an initial term of two years beginning
95 January 1, 2013, and until his or her respective successor is appointed. Following the
96 initial term, such member shall serve for terms of two years;
97 (3) One member to be appointed by the Speaker of the House of Representatives who
98 shall be a duly elected Georgia sheriff. Such member shall serve for an initial term of one
99 year beginning January 1, 2013, and until his or her respective successor is appointed.
100 Following the initial term, such member shall serve for terms of two years;

- 101 (4) One member to be appointed by the Governor who shall be a member of the
102 executive board of the Georgia Sheriffs' Association or a similar state-wide organization
103 of sheriffs. Such member shall serve for an initial term of one year beginning January
104 1, 2013, and until his or her respective successor is appointed. Following the initial term,
105 such member shall serve for terms of two years;
- 106 (5) One member to be appointed by the Governor who shall be a duly elected county
107 commissioner to serve for terms of two years, beginning January 1, 2013, and until such
108 member's respective successor is appointed; and
- 109 (6) One member to be appointed by the Governor who shall be a duly elected superior
110 court judge to serve for terms of two years, beginning January 1, 2013, and until such
111 member's respective successor is appointed.
- 112 (g) Each member of the authority may be authorized by the authority to receive an expense
113 allowance and reimbursement from funds of the authority in the same manner as provided
114 for in Code Section 45-7-21.
- 115 (h) Four members of the authority shall constitute a quorum, and the affirmative votes of
116 four members of the authority shall be required for any action to be taken by the authority.
- 117 (i) The authority may, in its discretion, appoint an executive director as the administrative
118 head of the authority and shall set his or her salary. The executive director, with the
119 concurrence and approval of the authority, shall hire officers, agents, and employees;
120 prescribe their duties, responsibilities, and qualifications and set their salaries; and perform
121 such other duties as may be prescribed by the authority. Such officers, agents, and
122 employees shall serve at the pleasure of the executive director.
- 123 (j) The authority may promulgate rules and regulations for its own government and for
124 discharging its duties as may be permitted or required by law or applicable rules and
125 regulations.
- 126 (k) The Attorney General shall provide legal services for the authority in the same manner
127 provided for in Code Sections 45-15-13 through 45-15-16.
- 128 (l) The authority shall have the following powers:
- 129 (1) To have a seal and alter the same at its pleasure;
- 130 (2) To make and execute contracts, lease agreements, and all other instruments necessary
131 or convenient to exercise the duties of the authority or to further the public purpose for
132 which the authority is created;
- 133 (3) To acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real or
134 personal property of every kind and character, or any interest therein, in furtherance of
135 the public purpose of the authority;
- 136 (4) To apply for and to accept any gifts or grants or loan guarantees or loans of funds or
137 property or financial or other aid in any form from the federal government or any agency

138 or instrumentality thereof, or from the state or any agency or instrumentality thereof, or
 139 from any other source for any or all of the purposes specified in this Code section and to
 140 comply, subject to the provisions of this Code section, with the terms and conditions
 141 thereof;

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

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

152 (7) To deposit or otherwise invest funds held by it in any state depository or in any
 153 investment which is authorized for the investment of proceeds of state general obligation
 154 bonds and to use for its corporate purposes or redeposit or reinvest interest earned on
 155 such funds; provided, however, that the authority shall not be authorized to issue revenue
 156 bonds, refunding bonds, notes, interim certificates, or any other type of or similar bonded
 157 indebtedness or evidences of indebtedness of the authority;

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

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

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

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

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

176 (p) The provisions of this Code section shall be deemed to provide an additional and
177 alternative method for doing things authorized by this Code section and shall be regarded
178 as supplemental and additional to powers conferred by the Constitution and laws of the
179 State of Georgia and shall not be regarded as in derogation of any powers now existing."

180 **SECTION 2.**

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

183 **SECTION 3.**

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