

## SENATE SUBSTITUTE TO HB 452:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 35 of the Official Code of Georgia Annotated, relating to law enforcement  
2 officers and agencies, so as require the bureau to publicly post and share certain information  
3 from the Law Enforcement Notification System of the Enforcement Integrated Database of  
4 the United States Department of Homeland Security to the extent permitted by federal law;  
5 to create the Board of Homeland Security, the Department of Homeland Security, and the  
6 position of commissioner of homeland security; to provide for definitions; to provide for the  
7 duties and responsibilities of the board, department, and commissioner; to provide for the  
8 promulgation of rules and regulations; to amend various provisions of the Official Code of  
9 Georgia Annotated so as to provide for conforming nomenclature and cross-references; to  
10 provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**PART I**  
**SECTION 1-1.**

14 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and  
15 agencies, is amended by adding a new Code section to read as follows:

16 "35-3-14.

17 To the extent permitted by federal law, the bureau shall post on its public website the  
18 information of persons who are aliens and who have been released from federal custody  
19 within the boundaries of this state after having committed a felony, as such information is  
20 presented within the Law Enforcement Notification System of the Enforcement Integrated  
21 Database of the United States Department of Homeland Security or the National Law  
22 Enforcement Telecommunications System as received by the Georgia Information Sharing  
23 and Analysis Center within the bureau or any replacement agency. Within 12 hours of  
24 receiving such information, the bureau shall post such information as required by this Code  
25 section and electronically send a copy of such information to the Georgia Sheriffs'

26 Association. The bureau shall promulgate rules and regulations for the implementation of  
 27 this Code section."

28 **SECTION 1-2.**

29 Said title is further amended by revising Code Section 35-3-203, relating to the duties and  
 30 responsibilities of the director, as follows:

31 "35-3-203.

32 (a) The director through the center shall share and provide homeland security activity  
 33 information to the director of emergency management and the commissioner of homeland  
 34 security, including, but not limited to, threats, warnings, and developing situations, when  
 35 an investigation reveals conduct of a terroristic nature or in material support of terroristic  
 36 activities, recruitment of terrorists, or information on the activities of known terrorist  
 37 organizations.

38 (b) The center shall liaise with the bureau, the Federal Bureau of Investigation, Joint  
 39 Terrorism Task Force, United States Department of Homeland Security, and other local,  
 40 state, and federal intelligence and law enforcement officials for purposes of carrying out  
 41 its duties and responsibilities under this article.

42 (c) The center shall allow unrestricted access to secure communications equipment to the  
 43 ~~director of emergency management and~~ commissioner of homeland security and his or her  
 44 representatives who possess the appropriate federally approved security clearances for the  
 45 dissemination of homeland security activity information by the United States Department  
 46 of Homeland Security.

47 (d) The ~~director of emergency management and~~ commissioner of homeland security shall  
 48 serve as this state's security manager for the purpose of identifying and processing state  
 49 personnel for security clearances through the United States Department of Homeland  
 50 Security."

51 **SECTION 1-3.**

52 Said title is further amended by revising Code Section 35-3-204, relating to the membership  
 53 and availability of analysts, as follows:

54 "35-3-204.

55 (a) Membership in the center shall consist of the director, the director of emergency  
 56 management ~~and homeland security,~~ the commissioner of homeland security, the  
 57 commissioner of public safety, the commissioner of natural resources, the commissioner  
 58 of corrections, the chief information officer for the State of Georgia, the state fire marshal,  
 59 the Attorney General, the adjutant general, and state and local fire service, law  
 60 enforcement, homeland security, emergency management, corrections, and other

61 appropriate agencies and disciplines as determined by the ~~director of emergency~~  
 62 ~~management and commissioner of homeland security~~ in consultation with the director.  
 63 Such members shall assign or make available their analysts or other personnel to the center  
 64 as such need is determined by the ~~director of emergency management and commissioner~~  
 65 ~~of homeland security~~.

66 (b) The ~~director of emergency management and commissioner of homeland security~~ shall  
 67 maintain ~~Georgia Emergency Management and Homeland Security Agency~~ analysts in the  
 68 center as needed as determined by the ~~director of emergency management and~~  
 69 ~~commissioner of homeland security~~."

#### 70 SECTION 1-4.

71 Said title is further amended by adding a new chapter to read as follows:

#### 72 "CHAPTER 11

#### 73 35-11-1.

74 As used in this chapter, the term:

75 (1) 'Board' means the Board of Homeland Security.

76 (2) 'Center' means the Georgia Information Sharing and Analysis Center.

77 (3) 'Commissioner' means the commissioner of homeland security.

78 (4) 'Critical infrastructure' shall have the same meaning as set forth in Code Section  
 79 16-11-220.

80 (5) 'Department' means the Georgia Department of Homeland Security.

81 (6) 'Domestic terrorism' shall have the same meaning as set forth in Code Section  
 82 16-11-220.

83 (7) 'Homeland security activity' means any activity related to the prevention or discovery  
 84 of, response to, or recovery from:

85 (A) Domestic terrorism;

86 (B) A hostile military or paramilitary action; or

87 (C) An extraordinary law enforcement emergency.

88 (8) 'Public transportation system' shall have the same meaning as set forth in Code  
 89 Section 16-11-220.

90 (9) 'Serious bodily harm' shall have the same meaning as set forth in Code Section  
 91 16-11-220.

92 (10) 'State or government facility' shall have the same meaning as set forth in Code  
 93 Section 16-11-220.

94 35-11-2.

95 (a) There is created a Board of Homeland Security.

96 (b) The board shall consist of 17 members who shall be as follows:

97 (1) The Governor, ex officio, who shall be chairperson of the board;

98 (2) The commissioner of homeland security;

99 (3) The director of emergency management;

100 (4) The commissioner of public safety;

101 (5) The director of the Georgia Bureau of Investigation;

102 (6) The adjutant general;

103 (7) The commissioner of natural resources;

104 (8) The commissioner of public health;

105 (9) The Attorney General or his or her designee who shall be the deputy attorney general  
 106 or an assistant attorney general;

107 (10) The commissioner of transportation;

108 (11) The Commissioner of Agriculture;

109 (12) The executive director of the Georgia Technology Authority; and

110 (13) Five appointees of the Governor who shall be individuals from the public or private  
 111 sector who are directly involved in policy, program, security, or funding activities  
 112 relevant to homeland security or infrastructure protection; provided, however, that one  
 113 such appointment shall be a sheriff and one such appointment shall be a chief executive  
 114 of a law enforcement agency of a county or a municipality. Such appointees under this  
 115 paragraph shall serve at the pleasure of the Governor.

116 (c)(1) Any legislative members of the board who may be appointed pursuant to  
 117 paragraph (13) of subsection (b) of this Code section shall receive the allowances  
 118 provided for in Code Section 28-1-8.

119 (2) Members of the board who are state or local government officials, other than  
 120 legislative members, or state or local government employees shall receive no  
 121 compensation for their services on the board, but they may be reimbursed for expenses  
 122 incurred by them in the performance of their duties as members of the board in the same  
 123 manner as they are reimbursed for expenses in their capacities as state or local  
 124 government officials or state or local government employees.

125 (3) Members of the board who are not legislators, state or local government officials, or  
 126 state or local government employees shall receive a daily expense allowance in an  
 127 amount the same as that specified in subsection (b) of Code Section 45-7-21, as well as  
 128 the mileage or transportation allowance authorized for state employees.

129 (4) Funds for the reimbursement of the expenses of state or local government officials,  
 130 other than legislative members, and state or local government employees shall come from

131 funds appropriated to or otherwise available to their respective governments,  
132 departments, authorities, or agencies.

133 35-11-3.

134 (a) The board shall:

135 (1) Establish the general policy to be followed by the department; and

136 (2) Advise the Governor and commissioner on:

137 (A) The implementation of the homeland security strategy by state and local agencies  
138 and provide specific guidance and counsel for helping those agencies implement the  
139 strategy; and

140 (B) All matters related to the planning, development, coordination, and implementation  
141 of initiatives to promote the homeland security strategy of the state.

142 (b) The board shall develop a state-wide homeland security strategy that improves the  
143 state's ability to:

144 (1) Protect against, respond to, and recover from domestic terrorism and other homeland  
145 security threats and hazards; and

146 (2) Mitigate loss of life and property by lessening the impact of future homeland security  
147 threats and hazards.

148 (c) The board's homeland security strategy shall coordinate homeland security activities  
149 among and between local, state, and federal agencies and the private sector and shall  
150 include specific plans for:

151 (1) Intelligence gathering, analysis, and sharing;

152 (2) Reducing the state's vulnerability to domestic terrorism and other homeland security  
153 threats and hazards;

154 (3) Protecting critical infrastructure, public transportation systems, and state or  
155 government facilities;

156 (4) Protecting the state's ports and airports;

157 (5) Detecting, deterring, and defending against domestic terrorism and cyber, biological,  
158 chemical, and nuclear terrorism;

159 (6) Positioning equipment, technology, and personnel to improve the state's ability to  
160 respond to a homeland security threats and hazards;

161 (7) Providing the center certain forms of authority to implement the homeland security  
162 strategy of this state; and

163 (8) Using technological resources to:

164 (A) Facilitate the interoperability of governmental technology resources, including  
165 data, networks, and applications;

166 (B) Coordinate the warning and alert systems of state and local agencies;

- 167 (C) Incorporate multidisciplinary approaches to homeland security; and  
 168 (D) Improve the security of governmental and private sector information technology  
 169 and information resources.

170 (d) The homeland security strategy shall complement and operate in coordination with  
 171 federal strategic guidance on homeland security.

172 (e) The board shall adopt rules and regulations which shall be adopted, established,  
 173 promulgated, amended, repealed, filed, and published in accordance with the applicable  
 174 provisions and procedures set forth in Chapter 13 of Title 50, the 'Georgia Administrative  
 175 Procedure Act.' The courts shall take judicial notice of any such rules or regulations. As  
 176 used in this subsection, the term 'rules and regulations' shall have the same meaning as the  
 177 word 'rule' as defined in paragraph (6) of Code Section 50-13-2.

178 35-11-4.

179 (a) There is established the Department of Homeland Security with a commissioner of  
 180 homeland security who shall be the head thereof. The department shall be assigned to the  
 181 Office of Planning and Budget for administrative purposes only as provided in Code  
 182 Section 50-4-3.

183 (b) The department shall direct and implement the board's homeland security strategy.

184 35-11-5.

185 (a) The Governor shall appoint the commissioner of homeland security. He or she shall  
 186 hold office at the pleasure of the Governor, who shall fix his or her compensation. The  
 187 commissioner of homeland security shall hold no other state office.

188 (b) The commissioner may employ such professional, technical, clerical, stenographic, and  
 189 other personnel, may fix their compensation, and may make such expenditures within the  
 190 appropriation therefor, or from other funds made available for purposes of homeland  
 191 security, as may be necessary to carry out the purposes of this chapter.

192 (c) The commissioner, with the approval of the board, may establish units within the  
 193 department as he or she deems proper for its administration and shall designate persons to  
 194 be assistant commissioners of each unit and to exercise authority as he or she may delegate  
 195 to them in writing.

196 (d) The commissioner and other personnel of the department shall be provided with  
 197 appropriate office space, furniture, equipment, supplies, stationery, and printing in the same  
 198 manner as provided for personnel of other state departments and agencies.

199 (e) The commissioner shall:

200 (1) Be the executive head of the department and shall be responsible to the Governor for  
 201 carrying out the program for homeland security in this state;

- 202        (2) Serve as the central authority reporting to the Governor on all matters relating to  
 203        homeland security;
- 204        (3) Have command and control authority over all operational areas involving terrorist  
 205        activity within this state;
- 206        (4) Coordinate the activities of all organizations for homeland security within the state;
- 207        (5) Maintain liaison with and cooperate with homeland security agencies and  
 208        organizations of other states and of the federal government;
- 209        (6) Oversee all risk and threat assessments and coordinate all plans for timely and  
 210        complete responses through a network of state, local, and federal organizations,  
 211        including, but not limited to, the coordination of efficient and timely flow of information;
- 212        (7) Be responsible for measures to identify, acquire, and plan the use of resources needed  
 213        to anticipate, prevent, or resolve a threat or act of domestic terrorism;
- 214        (8) Coordinate and review all activities involving homeland security within any agency,  
 215        authority, or entity of this state, including, but not limited to, oversight of homeland  
 216        security activities found within the Department of Public Safety, the Georgia Bureau of  
 217        Investigation, the Georgia National Guard, the Department of Natural Resources, the  
 218        Georgia Technology Authority, the Department of Community Health, and the  
 219        Department of Public Health;
- 220        (9) Evaluate information developed by the criminal justice community in regard to  
 221        threats or potential threats of domestic terrorism; and
- 222        (10) Have such additional authority, duties, and responsibilities authorized by law.

223        35-11-6.

224        Appropriations to the Georgia Emergency Management Agency for functions transferred  
 225        to the department pursuant to this chapter shall be transferred to the department as provided  
 226        for in Code Section 45-12-90. Personnel, equipment, and facilities previously employed  
 227        by the Georgia Emergency Management Agency for functions transferred to the  
 228        department pursuant to this chapter shall likewise be transferred to the department. Any  
 229        disagreement as to any of such transfers shall be resolved by the Governor.

230        35-11-7.

231        A state or local agency that performs a homeland security activity shall cooperate with and  
 232        assist the commissioner and the center in the performance of their duties under this chapter  
 233        and other state or federal law."

234  
235

**PART II**  
**SECTION 2-1.**

236 Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources,  
237 is amended by revising subsection (c) of Code Section 12-5-30.4, relating to establishment  
238 of water emergency response procedures, as follows:

239 "(c) If the division determines that there is a threat to the health or property of downstream  
240 users of the waters of this state, the division shall as soon as possible, but not more than 24  
241 hours after such determination, notify and consult with the Georgia Emergency  
242 Management and ~~Homeland Security~~ Agency, the appropriate local emergency  
243 management agency, the appropriate local county health department, and other appropriate  
244 divisions within the department as necessary to determine if it is necessary to prepare and  
245 distribute a public notice concerning such threat. Upon notification by the division, the  
246 local emergency management agency or the local county health department shall prepare  
247 and post such public notice through electronic media and print. Such public notice shall  
248 be located at places where the public regularly uses the waters of this state or seeks  
249 information about such waters."

250

**SECTION 2-2.**

251 Said chapter is further amended by revising subsection (a) of Code Section 12-5-204, relating  
252 to completion and submission of emergency plan and costs, as follows:

253 "(a) The authority shall ensure the completion of the emergency plan not later than  
254 September 1, 2011, and shall submit the emergency plan to the director of the  
255 Environmental Protection Division of the Department of Natural Resources, the director  
256 of the Georgia Emergency Management and ~~Homeland Security~~ Agency, the Governor,  
257 Lieutenant Governor, Speaker of the House of Representatives, and chairpersons of the  
258 Senate and House Committees on Natural Resources and Environment and of the Senate  
259 and House Committees on Appropriations not later than September 15, 2011."

260

**SECTION 2-3.**

261 Code Section 20-2-1185 of the Official Code of Georgia Annotated, relating to school safety  
262 plans, is amended by revising subsections (b) and (d) as follows:

263 "(b) A public school may request funding assistance from the state for the installation of  
264 safety equipment, including, but not limited to, video surveillance cameras, metal detectors,  
265 and other similar security devices. Funding may be provided to a public school in  
266 accordance with a school safety plan prepared by the school and approved by the local



267 board of education, the Department of Education, and the Georgia Emergency Management  
268 ~~and Homeland Security Agency.~~"

269 "(d) The Georgia Emergency Management ~~and Homeland Security Agency~~ shall provide  
270 training and technical assistance to public school systems, and may provide this same  
271 training and technical assistance to private school systems, and independent private schools  
272 throughout this state in the area of emergency management and safe school operations.  
273 This training and technical assistance shall include, but not be limited to, crisis response  
274 team development, site surveys and safety audits, crisis management planning, exercise  
275 design, safe school planning, emergency operations planning, search and seizure, bomb  
276 threat management, and model school safety plans."

277 **SECTION 2-4.**

278 Code Section 31-12-2.1 of the Official Code of Georgia Annotated, relating to investigation  
279 of potential bioterrorism activity and regulations and planning for public health emergencies,  
280 is amended by revising subsections (b) and (c) as follows:

281 "(b) The department shall promulgate rules and regulations appropriate for management  
282 of any public health emergency declared pursuant to the provisions of Code Section  
283 38-3-51, with particular regard to coordination of the public health emergency response of  
284 the state pursuant to subsection (i) of said Code section. Such rules and regulations shall  
285 be applicable to the activities of all entities created pursuant to Chapter 3 of this title in  
286 such circumstances, notwithstanding any other provisions of law. In developing such rules  
287 and regulations, the department shall consult and coordinate as appropriate with the  
288 Georgia Emergency Management ~~and Homeland Security Agency~~, the Federal Emergency  
289 Management Agency, the Georgia Department of Public Safety, the Georgia Department  
290 of Agriculture, and the federal Centers for Disease Control and Prevention. The  
291 department is authorized, in the course of management of a declared public health  
292 emergency, to adopt and implement emergency rules and regulations pursuant to the  
293 provisions of subsection (b) of Code Section 50-13-4. Such rules and regulations shall be  
294 adopted pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' but  
295 shall be automatically referred by the Office of Legislative Counsel to the House of  
296 Representatives and Senate Committees on Judiciary.

297 (c) The department shall promulgate, prepare, and maintain a public health emergency  
298 plan and draft executive order for the declaration of a public health emergency pursuant to  
299 Code Section 38-3-51 and Chapter 13 of Title 50. In preparation of such public health  
300 emergency plan and draft executive order, the department shall consult and coordinate as  
301 appropriate with the Georgia Emergency Management ~~and Homeland Security Agency~~, the  
302 Federal Emergency Management Agency, the Georgia Department of Public Safety, the

303 Georgia Department of Agriculture, and the federal Centers for Disease Control and  
304 Prevention.”

305 **SECTION 2-5.**

306 Code Section 35-6A-3 of the Official Code of Georgia Annotated, relating to membership  
307 of the Criminal Justice Coordinating Council, vacancies, and membership not bar to holding  
308 public office, is amended by revising paragraph (1) of subsection (a) as follows:

309 “(1) The chairperson of the Georgia Peace Officer Standards and Training Council, the  
310 ~~director~~ commissioner of homeland security, the chairperson of the Judicial Council of  
311 Georgia, the chairperson of the Council of Accountability Court Judges of Georgia, the  
312 chairperson of the Prosecuting Attorneys' Council of the State of Georgia, the  
313 commissioner of corrections, the chairperson of the Board of Corrections, the  
314 commissioner of community supervision, the chairperson of the Board of Community  
315 Supervision, the vice chairperson of the Board of Public Safety, the chairperson of the  
316 State Board of Pardons and Paroles, the State School Superintendent, the commissioner  
317 of community affairs, the president of the Council of Juvenile Court Judges, the  
318 chairperson of the Georgia Public Defender Council, the chairperson of the Governor's  
319 Office for Children and Families, and the commissioner of juvenile justice or their  
320 designees shall be ex officio members of the council, as full voting members of the  
321 council by reason of their office; and”

322 **SECTION 2-6.**

323 Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency  
324 management, is amended by revising Code Section 38-3-20, relating to Georgia Emergency  
325 Management Agency created, director, staff, offices, director's duties, and disaster  
326 coordinator, as follows:

327 “38-3-20.

328 (a) There is established the Georgia Emergency Management ~~and Homeland Security~~  
329 Agency with a director of emergency management ~~and homeland security~~ who shall be the  
330 head thereof. The Georgia Emergency Management ~~and Homeland Security~~ Agency shall  
331 be assigned to the Office of Planning and Budget for administrative purposes only as  
332 provided in Code Section 50-4-3.

333 (b) The Governor shall appoint the director of emergency management ~~and homeland~~  
334 ~~security~~. He or she shall hold office at the pleasure of the Governor, who shall fix his or  
335 her compensation. The director of emergency management ~~and homeland security~~ shall  
336 hold no other state office.

337 (c) The director may employ such professional, technical, clerical, stenographic, and other  
 338 personnel, may fix their compensation, and may make such expenditures within the  
 339 appropriation therefor, or from other funds made available for purposes of emergency  
 340 management ~~and homeland security~~, as may be necessary to carry out the purposes of  
 341 ~~Article 9 of Chapter 3 of Title 35~~, Article 1, this article, and Article 3 of this chapter, and  
 342 the duties of the agency and the director described in Part 4 of Article 2 of Chapter 5 of  
 343 Title 46, the 'Georgia Emergency Telephone Number 9-1-1 Service Act of 1977,' as  
 344 amended.

345 (d) The director and other personnel of the Georgia Emergency Management ~~and~~  
 346 ~~Homeland Security~~ Agency shall be provided with appropriate office space, furniture,  
 347 equipment, supplies, stationery, and printing in the same manner as provided for personnel  
 348 of other state agencies.

349 (e) The director, subject to the direction and control of the Governor, shall:

350 (1) Be the executive head of the Georgia Emergency Management ~~and Homeland~~  
 351 ~~Security~~ Agency and shall be responsible to the Governor for carrying out the program  
 352 for emergency management ~~and homeland security~~ in this state;

353 ~~(2) Serve as the central authority reporting to the Governor on all matters relating to~~  
 354 ~~homeland security;~~

355 ~~(3) Have command and control authority over all operational areas involving terrorist~~  
 356 ~~activity within this state, including, but not limited to, the Homeland Security Task Force~~  
 357 ~~and the Homeland Security Central Command when activated by the Governor;~~

358 ~~(4)~~(2) Coordinate the activities of all organizations for emergency management ~~and~~<sup>2</sup>  
 359 ~~homeland security~~ within the state;

360 ~~(5)~~(3) Maintain liaison with and cooperate with emergency management agencies and  
 361 organizations of other states and of the federal government; and

362 ~~(6) Oversee all risk and threat assessments and coordinate all plans for timely and~~  
 363 ~~complete responses through a network of state, local, and federal organizations,~~  
 364 ~~including, but not limited to, the coordination of efficient and timely flow of information;~~

365 ~~(7) Be responsible for crisis and consequence management planning, including, but not~~  
 366 ~~limited to, measures to identify, acquire, and plan the use of resources needed to~~  
 367 ~~anticipate, prevent, or resolve a threat or act of terrorism;~~

368 ~~(8) Coordinate and review all activities involving homeland security within any agency,~~  
 369 ~~authority, or entity of this state, including, but not limited to, oversight of homeland~~  
 370 ~~security activities found within the Department of Public Safety, the Georgia Bureau of~~  
 371 ~~Investigation, the Georgia National Guard, the Department of Natural Resources, the~~  
 372 ~~Department of Community Health, and the Department of Public Health;~~

373 ~~(9) Evaluate information developed by the criminal justice community in regard to~~  
 374 ~~threats or potential threats of terrorism; and~~  
 375 ~~(10)(4) Have such additional authority, duties, and responsibilities authorized by Article~~  
 376 1, this article, and Article 3 of this chapter as may be prescribed by the Governor and  
 377 such additional authority, duties, and responsibilities as described in ~~Article 9 of Chapter~~  
 378 ~~3 of Title 35 and Part 4 of Article 2 of Chapter 5 of Title 46, the 'Georgia Emergency~~  
 379 ~~Telephone Number 9-1-1 Service Act of 1977,' as amended.~~  
 380 (f) The director of emergency management ~~and homeland security~~ shall also be the  
 381 disaster coordinator and shall act for the Governor when requested to do so."

#### 382 SECTION 2-7.

383 Said chapter is further amended by revising subsection (a) of Code Section 38-3-22, relating  
 384 to Governor's emergency management powers and duties, as follows:

385 "(a) The Governor shall have general direction and control of the Georgia Emergency  
 386 Management ~~and Homeland Security~~ Agency and shall be responsible for the carrying out  
 387 of the provisions of Article 1, this article, and Article 3 of this chapter and, in the event of  
 388 disaster or emergency beyond local control, may assume direct operational control over all  
 389 or any part of the emergency management functions within this state."

#### 390 SECTION 2-8.

391 Said chapter is further amended by revising subsection (c) and paragraph (2) of subsection  
 392 (d) of Code Section 38-3-22.1, relating to safety plan addressing threat of terrorism required  
 393 of state agencies or authorities, exemptions, training and technical assistance, and  
 394 confidentiality of plans and related documentation, as follows:

395 "(c) Subject to the availability of funds for such purpose, the Georgia Emergency  
 396 Management ~~and Homeland Security~~ Agency shall provide training and technical  
 397 assistance to agencies and authorities and may provide such training and technical  
 398 assistance to local units of government and to critical facilities operated by the private  
 399 sector. Such training and technical assistance shall include, but not be limited to, crisis  
 400 response team development, site surveys and safety audits, crisis management planning,  
 401 exercise design, safe school planning, emergency operations planning, search and seizure,  
 402 bomb threat management, and model safety plans."

403 "(2) Any other record produced pursuant to this Code section the disclosure of which  
 404 would, in the determination of the director of the Georgia Emergency Management ~~and~~  
 405 ~~Homeland Security~~ Agency, endanger the life or physical safety of any person or persons  
 406 or the physical safety of any public property."

**SECTION 2-9.**

Said chapter is further amended by revising subparagraph (a)(3)(F) and paragraph (6) of subsection (a) of Code Section 38-3-27, relating to local organizations for emergency management, creation, structure, powers, directors, appointment, qualifications, and compensation, state to provide financial assistance, and entitlement for funding, as follows:

"(F) Except as provided in this subparagraph, any director or deputy director of a local emergency management organization appointed after July 1, 1999, shall be a certified emergency manager under the Georgia Emergency Management ~~and Homeland Security~~ Agency's Certified Emergency Manager Program. The curriculum of the Certified Emergency Manager Program and requirements for certification shall be determined by the director of emergency management ~~and homeland security~~ and shall include, but not be limited to, professional development series training, independent study courses, emergency preparedness courses, and field-delivered courses. Certification may be obtained by an appointed director or deputy director within six months of his or her appointment. Certification shall expire biennially. As a condition of certification renewal, such emergency management personnel shall be required to satisfactorily complete continuing education requirements provided for in subparagraph (G) of this paragraph."

"(6) A local director whose salary is reimbursed in part or in full by the Georgia Emergency Management ~~and Homeland Security~~ Agency shall also meet all requirements which may be imposed by the federal emergency management agency or its successor."

**SECTION 2-10.**

Said chapter is further amended by revising subsection (d) of Code Section 38-3-50, relating to emergency interim successors to various officials and necessity of declared emergency, as follows:

"(d) Designations of emergency interim successors to state officers shall become official upon the officer filing a list of the successors with the Secretary of State, who shall inform the Governor, the Georgia Emergency Management ~~and Homeland Security~~ Agency, all emergency interim successors to the officer involved, and the judge of the probate court of the county of legal residence of the successors of all such designations and any changes therein. Any designation of an emergency interim successor may be changed or altered by the officer concerned filing a notice of the change or alteration with the Secretary of State."

**SECTION 2-11.**

Said chapter is further amended by revising Code Section 38-3-57, relating to establishment of standardized, verifiable, performance based unified incident command system, utilization, training, implementation, funding, and first informer broadcasters, as follows:

"38-3-57.

(a) The Georgia Emergency Management and ~~Homeland Security~~ Agency shall establish and maintain, in collaboration with all appropriate state agencies and volunteer organizations with emergency support function roles and professional organizations that represent local public safety agencies, including the Emergency Management Association of Georgia, the Georgia Association of Police Chiefs, the Georgia Fire Chiefs' Association, and the Georgia Sheriffs' Association, a standardized, verifiable, performance based unified incident command system.

(b) Such system shall be consistent with the Georgia Emergency Operations Plan and shall be utilized in response to emergencies and disasters referenced in the Georgia Emergency Operations Plan, including presidentially declared disasters and states of emergency issued by the Governor.

(c) The Georgia Emergency Management and ~~Homeland Security~~ Agency, in cooperation with the Georgia Public Safety Training Center and the State Forestry Commission, shall develop or adopt a course of instruction for use in training and certifying emergency response personnel in unified incident command.

(d) All local public safety and emergency response organizations, including emergency management agencies, law enforcement agencies, fire departments, and emergency medical services, shall implement the standardized unified incident command system provided for in subsection (a) of this Code section by October 1, 2004.

(e) Local agencies that have not established such system by October 1, 2004, shall not be eligible for state reimbursement for any response or recovery related expenses.

(f)(1) As used in this subsection, the term:

(A) 'Broadcaster' means any corporation or other entity that is primarily engaged in the business of broadcasting video or audio programming, whether through the public airwaves, cable, direct or indirect satellite transmission, or any other similar means of communication.

(B) 'Emergency' means the declaration of a state of emergency or disaster as provided in Code Section 38-3-51 or as presidentially declared.

(C) 'First informer broadcaster' means a broadcaster in Georgia who makes application to the Georgia Emergency Management and ~~Homeland Security~~ Agency for designation as a first informer broadcaster and who is granted such designation as a first

475 informer broadcaster pursuant to rules and regulations promulgated by the director of  
 476 emergency management ~~and homeland security~~.

477 (2) The unified incident command system and the Georgia Emergency Operations Plan  
 478 shall, by July 1, 2016, establish planning for first informer broadcasters such that first  
 479 informer broadcasters, to any extent practicable, may during an emergency:

480 (A) Have access to areas affected by an emergency for the purpose of restoring,  
 481 repairing, or resupplying any facility or equipment critical to the ability of a broadcaster  
 482 to acquire, produce, or transmit emergency related programming, including but not  
 483 limited to repairing and maintaining transmitters and generators and transporting fuel  
 484 for generators;

485 (B) Have access to the distribution of fuel, food, water, supplies, equipment, and any  
 486 other materials necessary for maintaining or producing a broadcast or broadcasting  
 487 signal; and

488 (C) Not have vehicles, fuel, food, water, and any other materials seized or condemned  
 489 that are essential for maintaining or producing a broadcast or broadcasting signal.

490 (3) The Georgia Emergency Management ~~and Homeland Security~~ Agency may develop  
 491 or adopt courses of instruction for use in training personnel of first informer broadcasters  
 492 on personal safety and navigation in an area affected by an emergency. The requirements  
 493 of any such training shall be established pursuant to rules and regulations promulgated  
 494 by the director of emergency management ~~and homeland security~~. The costs of any such  
 495 training shall be paid by the first informer broadcasters participating in the training."

496 **SECTION 2-12.**

497 Said chapter is further amended by revising Code Section 38-3-140, relating to short title, as  
 498 follows:

499 "38-3-140.

500 This article shall be known and may be cited as the 'Georgia Emergency Management ~~and~~  
 501 ~~Homeland Security~~ Agency Nomenclature Act of 2008."

502 **SECTION 2-13.**

503 Said chapter is further amended by revising Code Section 38-3-141, relating to definitions,  
 504 as follows:

505 "38-3-141.

506 As used in this article, the term:

507 (1) 'Badge' means any official badge, identification card, or security pass used by  
 508 members of the Georgia Emergency Management ~~and Homeland Security~~ Agency, either  
 509 in the past or currently.

510 (2) 'Director' means the director of the Georgia Emergency Management ~~and Homeland~~  
511 ~~Security~~ Agency.

512 (3) 'Emblem' means any official patch or other emblem worn currently or formerly or  
513 used by the Georgia Emergency Management ~~and Homeland Security~~ Agency to identify  
514 the agency, a division of the agency, or employees of the agency.

515 (4) 'Person' means any person, corporation, organization, or political subdivision of the  
516 State of Georgia.

517 (5) 'Seal' means any official symbol, mark, or abbreviation which represents and is used,  
518 currently or in the past, by the Georgia Emergency Management ~~and Homeland Security~~  
519 Agency or any other division or operation under the command of the Georgia Emergency  
520 Management ~~and Homeland Security~~ Agency to identify the agency, a division of the  
521 agency, or employees of the agency.

522 (6) 'Willful violator' means any person who knowingly violates the provisions of this  
523 article. Any person who violates this article after being advised in writing by the director  
524 that such person's activity is in violation of this article shall be considered a willful  
525 violator and shall be considered in willful violation of this article. Any person whose  
526 agent or representative is a willful violator and who has knowledge of the violation by  
527 the agent or representative shall also be considered a willful violator and in willful  
528 violation of this article unless, upon learning of the violation, he or she immediately  
529 terminates the agency or other relationship with such violator."

530 **SECTION 2-14.**

531 Said chapter is further amended by revising Code Section 38-3-142, relating to use of agency  
532 name without written permission prohibited in certain circumstances, as follows:

533 "38-3-142.

534 Whoever, except with the written permission of the director, knowingly uses the words  
535 'Georgia Emergency Management Agency,' '~~Georgia Homeland Security Agency,~~'  
536 'Emergency Management Agency,' '~~Homeland Security Agency,~~' 'GEMA,' 'GEMHSA,' or  
537 '~~GEMA/HS~~' or 'GEMA' in referring to Georgia's Emergency Management ~~and Homeland~~  
538 ~~Security~~ Agency in connection with any advertisement, circular, book, pamphlet, or other  
539 publication, play, motion picture, broadcast, telecast, or other production in a manner  
540 reasonably calculated to convey the impression that such advertisement, circular, book,  
541 pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production  
542 is approved, endorsed, or authorized by or associated with the Georgia Emergency  
543 Management ~~and Homeland Security~~ Agency shall be in violation of this article."



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**SECTION 2-15.**

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Said chapter is further amended by revising Code Section 38-3-143, relating to use or display of agency symbols without written permission prohibited, as follows:

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"38-3-143.

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Any person who uses or displays any symbol, including any emblem, seal, or badge, current or historical, used by the Georgia Emergency Management and Homeland Security Agency without written permission from the director shall be in violation of this article."

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**SECTION 2-16.**

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Said chapter is further amended by revising Code Section 38-3-144, relating to requests for permission and grants of permission at director's discretion, as follows:

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"38-3-144.

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Any person seeking permission to use or display the nomenclature or symbols of the Georgia Emergency Management and Homeland Security Agency may request such permission in writing to the director. The director shall serve notice on the requesting party within 15 calendar days after receipt of the request of his or her decision on whether the person may use the nomenclature or the symbol. If the director does not respond within the 15 day time period, then the request is presumed to have been denied. The grant of permission under this article shall be at the discretion of the director and under such conditions as the director may impose."

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**SECTION 2-17.**

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Said chapter is further amended by revising Code Section 38-3-151, relating to definitions, as follows:

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"38-3-151.

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As used in this article, the term:

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(1) 'Agency' means the Georgia Emergency Management and Homeland Security Agency established by Code Section 38-3-20.

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(2) 'Building mapping information system' means a state-wide informational system containing maps of designated public buildings.

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(3) 'Director' means the director of the agency."

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**SECTION 2-18.**

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Said chapter is further amended by revising paragraph (2) of Code Section 38-3-161, relating to definitions, as follows:

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576 "(2) 'Disaster relief organization' means an entity that provides emergency or disaster  
 577 relief services that include health services or veterinary services provided by volunteer  
 578 health practitioners and that:

579 (A) Is designated or recognized as a provider of those services pursuant to a disaster  
 580 response and recovery plan adopted by an agency of the federal government or the  
 581 Georgia Emergency Management ~~and Homeland Security~~ Agency; or

582 (B) Regularly plans and conducts its activities in coordination with an agency of the  
 583 federal government, the Department of Public Health, a local emergency management  
 584 agency, a local public health district, or the Georgia Emergency Management ~~and~~  
 585 ~~Homeland Security~~ Agency."

586 **SECTION 2-19.**

587 Said chapter is further amended by revising paragraph (1) of subsection (c) of Code Section  
 588 38-3-163, relating to regulation of volunteer health practitioners during an emergency, as  
 589 follows:

590 "(1) Consult and coordinate its activities with the Georgia Emergency Management ~~and~~  
 591 ~~Homeland Security~~ Agency, consistent with the Georgia Emergency Operations Plan, to  
 592 provide for the efficient and effective use of volunteer health practitioners; and"

593 **SECTION 2-20.**

594 Said chapter is further amended by revising subparagraph (a)(4)(D) and subsection (b) of  
 595 Code Section 38-3-164, relating to registration systems, as follows:

596 "(D) Be designated by the Georgia Emergency Management ~~and Homeland Security~~  
 597 Agency as a registration system for purposes of this article.

598 (b) While an emergency declaration is in effect, the Georgia Emergency Management ~~and~~  
 599 ~~Homeland Security~~ Agency, consistent with the Georgia Emergency Operations Plan; a  
 600 person authorized to act on behalf of the Georgia Emergency Management ~~and Homeland~~  
 601 ~~Security~~ Agency; or a host entity may confirm whether volunteer health practitioners  
 602 utilized in this state are registered with a registration system that complies with subsection  
 603 (a) of this Code section. Confirmation shall be limited to obtaining the identities of the  
 604 volunteer health practitioners from the system and determining whether the system  
 605 indicates that the volunteer health practitioners are licensed and in good standing."

606 **SECTION 2-21.**

607 Said chapter is further amended by revising subsection (b) of Code Section 38-3-168, relating  
 608 to construction with other provisions and inclusion, as follows:

609 "(b) The Georgia Emergency Management ~~and Homeland Security~~ Agency, pursuant to  
 610 the Emergency Management Assistance Compact, may incorporate into the emergency  
 611 forces of this state volunteer health practitioners who are not officers or employees of this  
 612 state, a political subdivision of this state, or a municipality or other local government  
 613 within this state."

614 **SECTION 2-22.**

615 Said chapter is further amended by revising Code Section 38-3-169, relating to regulatory  
 616 authority, as follows:

617 "38-3-169.

618 The Department of Public Health may promulgate rules and regulations to implement this  
 619 article. In doing so, the Department of Public Health shall consult with and consider the  
 620 recommendations of the Georgia Emergency Management ~~and Homeland Security~~ Agency,  
 621 consistent with the Georgia Emergency Operations Plan, and shall also consult with and  
 622 consider rules and regulations promulgated by similarly empowered agencies in other states  
 623 to promote uniformity of application of this article and make the emergency response  
 624 systems in the various states reasonably compatible."

625 **SECTION 2-23.**

626 Code Section 40-1-23 of the Official Code of Georgia Annotated, relating to regulatory  
 627 compliance inspections, notifications, contacts with state, permit required for transporting  
 628 hazardous materials, escorts or inspections, exceptions, recovery for damage or discharge,  
 629 civil monetary penalties, routing agencies, and adoption of regulations, is amended by  
 630 revising subsection (q) as follows:

631 "(q) The department is designated as the routing agency as defined in Title 49 C.F.R. Part  
 632 397, Subpart E. Routing determinations for hazardous materials shall be made in  
 633 accordance with the provisions of Federal Hazardous Materials Law, 49 U.S.C. Section  
 634 5112. The commissioner or his or her designee shall consult with Georgia Department of  
 635 Transportation, Georgia Department of Natural Resources, Georgia Emergency  
 636 Management ~~and Homeland Security~~ Agency, Georgia Department of Homeland Security,  
 637 or other agencies as necessary to carry out these responsibilities."

638 **SECTION 2-24.**

639 Code Section 46-5-122 of the Official Code of Georgia Annotated, relating to definitions for  
 640 the emergency telephone number 9-1-1 system, is amended by revising paragraph (2) as  
 641 follows:

642 "(2) 'Agency' means the Georgia Emergency Management ~~and Homeland Security~~  
 643 Agency established pursuant to Code Section 38-3-20 unless the context clearly requires  
 644 otherwise."

645 **SECTION 2-25.**

646 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
 647 amended by revising subsections (g) and (h) of Code Section 48-2-100, relating to short title,  
 648 definitions, legislative findings, certain exemptions for out-of-state businesses and employees  
 649 conducting operations related to declared state of emergency, and post-emergency  
 650 application of state laws and requirements, as follows:

651 "(g)(1) Any out-of-state business that enters this state to perform qualified work during  
 652 a disaster or emergency period shall provide to the department and to the Georgia  
 653 Emergency Management ~~and Homeland Security~~ Agency a statement that it is in this  
 654 state for purposes of responding to the disaster or emergency, which statement shall  
 655 include the ~~business'~~ business's name, state of domicile, principal business address,  
 656 federal tax identification number, date of entry, and contact information.

657 (2) A registered business in this state shall provide the information required in  
 658 paragraph (1) of this subsection to the department and to the Georgia Emergency  
 659 Management ~~and Homeland Security~~ Agency for any affiliate that enters this state that  
 660 is an out-of-state business. The notification shall also include contact information for the  
 661 registered business in this state.

662 (h) The Georgia Emergency Management ~~and Homeland Security~~ Agency and the  
 663 department shall promulgate regulations as necessary to comply with the requirements of  
 664 this Code section."

665 **SECTION 2-26.**

666 Said title is further amended by revising subsection (a) of Code Section 48-7-29.4, relating  
 667 to tax credit for disaster assistance funds received and rules and regulations, as follows:

668 "(a) A taxpayer who receives disaster assistance during a taxable year from the Georgia  
 669 Emergency Management ~~and Homeland Security~~ Agency or the Federal Emergency  
 670 Management Agency shall be allowed a credit against the tax imposed by Code Section  
 671 48-7-20 in an amount equal to \$500.00 or the actual amount of such disaster assistance,  
 672 whichever is less. The commissioner may require adequate supporting documentation  
 673 showing that the taxpayer received such assistance."

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**SECTION 2-27.**

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Said title is further amended by revising subsection (f) of Code Section 48-8-13, relating to taxing jurisdiction for mobile telecommunications services, as follows:

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"(f) A home service provider shall identify each customer's place of primary use and shall provide at least quarterly a complete listing of the total number of customers to the Georgia Emergency Management and ~~Homeland Security~~ Agency. The home service provider shall indicate in such report whether it is employing an enhanced ZIP Code to assign each street address to a specific taxing jurisdiction so as to qualify for the safe harbor provisions of 4 U.S.C. Section 120. Further, each home service provider shall, upon request, provide information showing the total number of billings and the amount of fees collected to any taxing jurisdiction as to the customers whose place of primary use is within the jurisdiction of such taxing jurisdiction; provided, however, that in no event shall customer identification be required to be released. Such information shall initially be made available not later than July 1, 2006."

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**SECTION 2-28.**

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Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general provisions regarding torts, is amended by revising Code Section 51-1-50, relating to immunity of broadcasters from liability for Levi's Call: Georgia's Amber Alert Program, as follows:

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"51-1-50.

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

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(1) 'Broadcast' means the transmission of video or audio programming by an electronic or other signal conducted by radiowaves or microwaves, by wires, lines, coaxial cables, wave guides or fiber optics, by satellite transmissions directly or indirectly to viewers or listeners, or by any other means of communication.

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(2) 'Broadcaster' means any corporation or other entity that is engaged in the business of broadcasting video or audio programming, whether through the public airwaves, by cable, by direct or indirect satellite transmission, or by any other means of communication.

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(3) 'Levi's Call: Georgia's Amber Alert Program' means the voluntary program entered into by the Georgia Bureau of Investigation, the Georgia Emergency Management and ~~Homeland Security~~ Agency, the Georgia Association of Broadcasters, and certain broadcasters licensed to serve in the State of Georgia, which program provides that if the Georgia Bureau of Investigation verifies that a child has been abducted and is in danger, an alert containing known details of the abduction is transmitted to the Georgia Emergency Management and ~~Homeland Security~~ Agency, which is then transmitted by the Georgia Emergency Management and ~~Homeland Security~~ Agency to broadcasters in

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710 Georgia; and those broadcasters participating in the program then broadcast or otherwise  
711 disseminate the alert to listeners, viewers, or subscribers.

712 (b) Any broadcaster participating in Levi's Call: Georgia's Amber Alert Program shall not  
713 be liable for any civil damages arising from the broadcast or other dissemination of any  
714 alert generated pursuant to the Levi's Call: Georgia's Amber Alert Program. The immunity  
715 provided for in this Code section shall apply to any broadcast or dissemination of  
716 information that is substantially consistent with the information transmitted by the Georgia  
717 Emergency Management ~~and Homeland Security~~ Agency and that takes place during an  
718 alert requested by the Georgia Emergency Management ~~and Homeland Security~~ Agency  
719 and for a period of two hours after such alert has ended or the Georgia Emergency  
720 Management ~~and Homeland Security~~ Agency informs the participating broadcasters that  
721 the alert has changed in content.

722 (c) Nothing in this Code section shall be construed to limit or restrict in any way any legal  
723 protection a broadcaster may have under any other law for broadcasting or otherwise  
724 disseminating any information."

725

### **PART III**

726

#### **SECTION 3-1.**

727

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