

House Bill 779

By: Representatives Powell of the 32<sup>nd</sup>, Rogers of the 10<sup>th</sup>, Rhodes of the 120<sup>th</sup>, and Jasperse of the 11<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to  
2 emergency management, so as to establish the homeland security division of the Georgia  
3 Emergency Management and Homeland Security Agency; to provide for definitions; to  
4 provide for the employment of peace officers by such division; to provide for the powers and  
5 duties of such division; to revise the duties of the director of the Georgia Emergency  
6 Management and Homeland Security Agency; to provide for immunities for officers or  
7 agents employed by such division; to amend Code Section 16-11-130 of the Official Code  
8 of Georgia Annotated, relating to exemptions from Code Sections 16-11-126 through  
9 16-11-127.2, so as to authorize any officer or agent or retired officer or agent of such division  
10 to carry a handgun on or off duty within this state with an exception; to amend Chapter 3 of  
11 Title 35 of the Official Code of Georgia Annotated, relating to the Georgia Bureau of  
12 Investigation, so as to revise the duties of the director of the Georgia Bureau of Investigation  
13 pertaining to the Georgia Information Sharing and Analysis Center; to revise the duties of  
14 the Georgia Information Sharing and Analysis Center; to provide for related matters; to  
15 repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **PART I**  
18 **SECTION 1-1.**

19 Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency  
20 management, is amended by revising Code Section 38-3-3, relating to definitions, as follows:  
21 "38-3-3.

22 As used in Articles 1 through 3 of this chapter, the term:

23 (1) 'Bioterrorism' means the intentional creation or use of any microorganism, virus,  
24 infectious substance, or any component thereof, whether naturally occurring or  
25 bioengineered, to cause death, illness, disease, or other biological malfunction in a

26 human, animal, plant, or other living organism in order improperly or illegally to  
 27 influence the conduct of government, to interfere with or disrupt commerce, or to  
 28 intimidate or coerce a civilian population.

29 (2) 'Emergency management' means the preparation for the carrying out of all emergency  
 30 functions other than functions for which military forces are primarily responsible to  
 31 prevent, minimize, and repair injury and damage resulting from emergencies, energy  
 32 emergencies, disasters, or the imminent threat thereof, of manmade or natural origin  
 33 caused by enemy attack, sabotage, acts of domestic or international terrorism, civil  
 34 disturbance, fire, flood, earthquake, wind, storm, wave action, oil spill or other water  
 35 contamination requiring emergency action to avert danger or damage, epidemic, air  
 36 contamination, blight, drought, infestation, explosion, riot or other hostile action,  
 37 radiological action, or other causes. These functions include, without limitation,  
 38 fire-fighting services; police services; emergency medical services; rescue; engineering;  
 39 warning services; communications; defense from radiological, chemical, biological, and  
 40 other special weapons to include weapons of mass destruction; evacuation of persons  
 41 from stricken areas; emergency welfare services; consequence management functions to  
 42 include victim services; emergency transportation; plant protection; temporary restoration  
 43 of public utility services; and other functions related to civilian protection, together with  
 44 all other activities necessary or incidental to the preparation for and carrying out of the  
 45 foregoing functions.

46 (2.1) 'Emergency Operations Command' means the unified command group comprising  
 47 the director of emergency management and homeland security, the director of the  
 48 Georgia Bureau of Investigation, the commissioner of public safety, the commissioner  
 49 of natural resources, the commissioner of transportation, and the adjutant general that is  
 50 responsible for coordinating the public safety response to natural disasters, homeland  
 51 security activities, and other emergencies within the state.

52 (3) 'Energy emergency' means a condition of danger to the health, safety, welfare, or  
 53 economic well-being of the citizens of this state arising out of a present or threatened  
 54 shortage of usable energy resources; also any condition of substantial danger to the  
 55 health, safety, or welfare of the citizens of this state resulting from the operation of any  
 56 electrical power-generating facility, the transport of any energy resource by any means  
 57 whatsoever, or the production, use, or disposal of any source material, special nuclear  
 58 material, or by-product, as defined by the Atomic Energy Act of 1954, 68 Stat. 919, 42  
 59 U.S.C. Section 2011, et seq.; also any nuclear incident, as defined by the Atomic Energy  
 60 Act of 1954, occurring within or outside this state, substantially affecting the health,  
 61 safety, or welfare of the citizens of this state.

62 (4) 'Energy resources' means all forms of energy or power including, without limitation,  
 63 oil, gasoline, and other petroleum products; natural or synthetic gas; electricity in all  
 64 forms and from all sources; and other fuels of any description, except wood.

65 (4.1) 'Homeland security activity' means any activity related to the prevention or  
 66 discovery of, response to, or recovery from:

67 (A) A terrorist attack;

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

69 (C) An extraordinary law enforcement emergency.

70 (4.2) 'Homeland security division' means a division within the Georgia Emergency  
 71 Management and Homeland Security Agency comprising officers or agents who are  
 72 certified as peace officers by the Georgia Peace Officer Standards and Training Council  
 73 and whose full time is dedicated to the preservation of public order and homeland  
 74 security activity.

75 (4.3) 'Pandemic influenza emergency' means the declaration by the World Health  
 76 Organization of at least a Phase 5 Pandemic Alert for influenza occurring in the United  
 77 States or the State of Georgia or the declaration by the Centers for Disease Control and  
 78 Prevention of at least a Category 2 Pandemic Severity Index for influenza occurring in  
 79 the United States or the State of Georgia.

80 (5) 'Political subdivision' means:

81 (A) Cities having a population of over 1,000;

82 (B) Cities having a population of less than 1,000 in which the Governor has established  
 83 a local organization; and

84 (C) Counties.

85 (6) 'Public health emergency' means the occurrence or imminent threat of an illness or  
 86 health condition that is reasonably believed to be caused by bioterrorism or the  
 87 appearance of a novel or previously controlled or eradicated infectious agent or biological  
 88 toxin and poses a high probability of any of the following harms:

89 (A) A large number of deaths in the affected population;

90 (B) A large number of serious or long-term disabilities in the affected population; or

91 (C) Widespread exposure to an infectious or toxic agent that poses a significant risk  
 92 of substantial future harm to a large number of people in the affected population.

93 (7) 'State of emergency' means the condition declared by the Governor when, in his or  
 94 her judgment, the threat or actual occurrence of a disaster, emergency, or energy  
 95 emergency in any part of the state is of sufficient severity and magnitude to warrant  
 96 extraordinary assistance by the state to supplement the efforts and available resources of  
 97 the several localities and relief organizations in preventing or alleviating the damage,  
 98 loss, hardship, or suffering threatened or caused thereby."

99

**SECTION 1-2.**

100 Said chapter is further amended by revising Code Section 38-3-20, relating to Georgia  
 101 Emergency Management and Homeland Security Agency created, director, staff, offices,  
 102 director's duties, and disaster coordinator, as follows:

103 "38-3-20.

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

109 (b) The Governor shall appoint the director of emergency management and homeland  
 110 security. He or she shall hold office at the pleasure of the Governor, who shall fix his or  
 111 her compensation. The director of emergency management and homeland security shall  
 112 hold no other state office.

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

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

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

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

129 (2) Serve as the central authority reporting to the Governor on all matters relating to  
 130 homeland security;

131 (3) Have ~~command and control~~ authority over ~~all operational~~ areas involving imminent  
 132 or current terrorist activity within this state, including, but not limited to, leading and  
 133 directing the actions of the Homeland Security Task Force and the ~~Homeland Security~~  
 134 ~~Central Command when activated by the Governor~~ Emergency Operations Command;

- 135 (4) Coordinate the activities of all organizations for emergency management and  
 136 homeland security within the state;
- 137 (5) Maintain liaison with and cooperate with emergency management agencies and  
 138 organizations of other states and of the federal government;
- 139 (6) ~~Oversee all~~ Through risk and threat assessments, ~~and~~ coordinate ~~all~~ plans for timely  
 140 and complete responses through a network of state, local, and federal organizations,  
 141 including, but not limited to, the coordination of efficient and timely flow of information;
- 142 (7) Be responsible for crisis and consequence management planning, including, but not  
 143 limited to, measures to identify, acquire, and plan the use of resources needed to  
 144 anticipate, prevent, or resolve a threat or act of terrorism;
- 145 (8) Coordinate and review ~~all~~ activities involving homeland security within any agency,  
 146 authority, or entity of this state, including, but not limited to, ~~oversight of~~ homeland  
 147 security activities found within the Department of Public Safety, the Georgia Bureau of  
 148 Investigation, the Georgia National Guard, the Department of Natural Resources, the  
 149 Department of Community Health, and the Department of Public Health;
- 150 (9) Evaluate information developed by the criminal justice community in regard to  
 151 threats or potential threats of terrorism; ~~and~~
- 152 (10) Serve as this state's security manager for the purpose of identifying and processing  
 153 state personnel for security clearances through the United States Department of  
 154 Homeland Security; and
- 155 (11) Have such additional authority, duties, and responsibilities authorized by Article 1,  
 156 this article, and Article 3 of this chapter as may be prescribed by the Governor and such  
 157 additional authority, duties, and responsibilities as described in Article 9 of Chapter 3 of  
 158 Title 35 and Part 4 of Article 2 of Chapter 5 of Title 46, the 'Georgia Emergency  
 159 Telephone Number 9-1-1 Service Act of 1977,' as amended.
- 160 (f) The director of emergency management and homeland security shall also be the  
 161 disaster coordinator and shall act for the Governor when requested to do so."

### 162 SECTION 1-3.

163 Said chapter is further amended by adding two new Code sections to read as follows:

164 "38-3-20.1.

165 (a) There is established the homeland security division. The director of emergency  
 166 management and homeland security shall have the power to appoint such a number of  
 167 officers or agents, who shall be peace officers, as may be necessary to meet the needs of  
 168 the Georgia Emergency Management and Homeland Security Agency. The homeland  
 169 security division shall have jurisdiction throughout this state with such duties and powers  
 170 as are prescribed by law.

- 171 (b) It shall be the duty of the homeland security division to:
- 172 (1) Focus on homeland security activity throughout this state in conjunction and
- 173 cooperation with federal, state, and local law enforcement agencies and to safeguard the
- 174 lives and property of the public;
- 175 (2) Detect, deter, and investigate violations of the criminal laws of this state, any other
- 176 state, or the United States in relation to homeland security activity within this state and
- 177 shall have authority to apprehend and arrest those persons who violate such criminal
- 178 laws;
- 179 (3) Serve and execute warrants in relation to any homeland security activity;
- 180 (4) Apprehend and arrest any person who is a fugitive from justice in relation to any
- 181 homeland security activity;
- 182 (5) In conjunction and cooperation with federal, state, and local law enforcement
- 183 agencies, identify and investigate violations of Article 6 of Chapter 11 of Title 16;
- 184 (6) Perform agency duties and responsibilities outlined in Article 27 of Chapter 2 of
- 185 Title 20, relating to loitering at or disrupting schools;
- 186 (7) Train local law enforcement, other state agency, and private sector partners in
- 187 homeland security activity; and
- 188 (8) Aid public and private sector critical infrastructure partners in conducting security
- 189 and vulnerability assessments.
- 190 (c) The director may, and if requested by the Governor shall, authorize and direct the
- 191 homeland security division to cooperate with and render assistance to any law enforcement
- 192 agency of this state or of any municipality, county, or other political subdivision thereof
- 193 in any criminal case, in the prevention or detection of violations of any law, or in the
- 194 apprehension or arrest of persons who violate the criminal laws of this state, any other
- 195 state, or the United States upon, in the case of municipalities, counties, or other political
- 196 subdivisions, a request by the governing authority or chief law enforcement officer of any
- 197 such municipality, county, or other political subdivision, by the sheriff of any county, or
- 198 by a judge of the superior court of any county.
- 199 (d) The homeland security division shall cooperate with all other law enforcement
- 200 agencies of this state or of any municipality, county, or other political subdivision thereof
- 201 in enforcing the laws of this state, any other state, or the United States in relation to
- 202 homeland security activity.
- 203 (e) Officers or agents of the homeland security division shall carry firearms while
- 204 performing their duties.
- 205 (f) In no case where the homeland security division is exercising any power or performing
- 206 any duty authorized by this Code section shall it usurp any of the duties or authority of any
- 207 sheriff of any county or any chief of police of any municipal or county police force.

208 38-3-20.2.  
 209 All immunities for peace officers provided for under Title 35 or any other law shall apply  
 210 to the officers or agents of the homeland security division."

211 **SECTION 1-4.**

212 Said chapter is further amended by repealing Code Section 38-3-22.2, relating to  
 213 establishment of the Airport Antiterrorism Training Committee and annual training, in its  
 214 entirety.

215 **PART II**

216 **SECTION 2-1.**

217 Code Section 16-11-130 of the Official Code of Georgia Annotated, relating to exemptions  
 218 from Code Sections 16-11-126 through 16-11-127.2, is amended by revising subsection (c)  
 219 as follows:

220 "(c)(1) As used in this subsection, the term 'courthouse' means a building or annex  
 221 occupied by judicial courts and containing rooms in which judicial proceedings are held.

222 (2) Except to the extent provided for in subsection (c.1) of this Code section, Code  
 223 Sections 16-11-126 through 16-11-127.2 shall not apply to or affect any:

224 (A) Sheriff, retired sheriff, deputy sheriff, or retired deputy sheriff if such retired  
 225 sheriff or deputy sheriff is eligible to receive or is receiving benefits under the Peace  
 226 Officers' Annuity and Benefit Fund provided under Chapter 17 of Title 47, the Sheriffs'  
 227 Retirement Fund of Georgia provided under Chapter 16 of Title 47, or any other public  
 228 retirement system established under the laws of this state for service as a law  
 229 enforcement officer;

230 (B) Member of the Georgia State Patrol, agent of the Georgia Bureau of Investigation,  
 231 retired member of the Georgia State Patrol, or retired agent of the Georgia Bureau of  
 232 Investigation if such retired member or agent is receiving benefits under the Employees'  
 233 Retirement System of Georgia;

234 (B.1) Officer or agent of the homeland security division of the Georgia Emergency  
 235 Management and Homeland Security Agency or retired officer or agent of the  
 236 homeland security division of the Georgia Emergency Management and Homeland  
 237 Security Agency if such retired officer or agent is receiving benefits under the  
 238 Employees' Retirement System of Georgia;

239 (C) Full-time law enforcement chief executive engaging in the management of a  
 240 county, municipal, state, state authority, or federal law enforcement agency in the State  
 241 of Georgia, including any college or university law enforcement chief executive who

242 is registered or certified by the Georgia Peace Officer Standards and Training Council;  
 243 or retired law enforcement chief executive who formerly managed a county, municipal,  
 244 state, state authority, or federal law enforcement agency in the State of Georgia,  
 245 including any college or university law enforcement chief executive who was registered  
 246 or certified at the time of his or her retirement by the Georgia Peace Officer Standards  
 247 and Training Council, if such retired law enforcement chief executive is receiving  
 248 benefits under the Peace Officers' Annuity and Benefit Fund provided under Chapter 17  
 249 of Title 47 or is retired in good standing and receiving benefits from a county,  
 250 municipal, State of Georgia, state authority, or federal retirement system;

251 (D) Police officer of any county, municipal, state, state authority, or federal law  
 252 enforcement agency in the State of Georgia, including any college or university police  
 253 officer who is registered or certified by the Georgia Peace Officer Standards and  
 254 Training Council, or retired police officer of any county, municipal, state, state  
 255 authority, or federal law enforcement agency in the State of Georgia, including any  
 256 college or university police officer who was registered or certified at the time of his or  
 257 her retirement by the Georgia Peace Officer Standards and Training Council, if such  
 258 retired police officer is receiving benefits under the Peace Officers' Annuity and Benefit  
 259 Fund provided under Chapter 17 of Title 47 or is retired in good standing and receiving  
 260 benefits from a county, municipal, State of Georgia, state authority, or federal  
 261 retirement system; or

262 (E) Person who is a citizen of this state and:

263 (i) Has retired with at least ten years of aggregate service as a law enforcement  
 264 officer with powers of arrest under the laws of any state of the United States or of the  
 265 United States;

266 (ii) Separated from service in good standing, as determined by criteria established by  
 267 the Georgia Peace Officer Standards and Training Council, from employment with  
 268 his or her most recent law enforcement agency; and

269 (iii) Possesses on his or her person an identification card for retired law enforcement  
 270 officers as issued by the Georgia Peace Officer Standards and Training Council;  
 271 provided, however, that such person meets the standards for the issuance of such card  
 272 as provided for by the council, including, but not limited to, maintenance of  
 273 qualification in firearms training.

274 In addition, any such sheriff, retired sheriff, deputy sheriff, retired deputy sheriff, member  
 275 or retired member of the Georgia State Patrol, agent or retired agent of the Georgia  
 276 Bureau of Investigation, officer or retired officer of the Department of Natural Resources,  
 277 officer or agent or retired officer or agent of the homeland security division of the  
 278 Georgia Emergency Management and Homeland Security Agency, active or retired law



279 enforcement chief executive, person who is a retired law enforcement officer as provided  
 280 for in paragraph (2) of this subsection, or other law enforcement officer referred to in this  
 281 subsection shall be authorized to carry a handgun on or off duty anywhere within this  
 282 state, including, but not limited to, in a courthouse except to the extent provided for in  
 283 subsection (c.1) of this Code section, and Code Sections 16-11-126 through 16-11-127.2  
 284 shall not apply to the carrying of such firearms."

285 **PART III**

286 **SECTION 3-1.**

287 Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia  
 288 Bureau of Investigation, is amended by revising Article 9, relating to the Georgia  
 289 Information Sharing and Analysis Center, as follows:

290 "ARTICLE 9

291 35-3-200.

292 As used in this article, the term:

293 (1) 'Center' means the Georgia Information Sharing and Analysis Center.

294 (2) 'Fusion center' means collaborative effort which combines resources, expertise,  
 295 intelligence, and other information from various agencies of state and local governments  
 296 with the goal of maximizing the ability of this state to detect, prevent, and respond to  
 297 criminal activities or to otherwise engage in homeland security activities.

298 (3) 'Homeland security activity' means any activity related to the prevention or discovery  
 299 of, response to, or recovery from:

300 (A) A terrorist attack;

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

302 (C) An extraordinary law enforcement emergency.

303 35-3-201.

304 There is established the Georgia Information Sharing and Analysis Center as a distinct  
 305 division within the Georgia Bureau of Investigation. The center shall be a fusion center  
 306 maintaining criminal intelligence and terrorism analytical components. The officer or  
 307 agent charged with operating the center shall report directly to the director.

308 35-3-202.

309 ~~(a) Responsibility for the development, maintenance, and operations of the center shall be~~  
310 ~~vested in the director.~~

311 ~~(b) The director shall appoint and maintain the necessary professional and support staff to~~  
312 ~~enable the center to effectively and efficiently carry out its duties and responsibilities under~~  
313 ~~this article Reserved.~~

314 35-3-203.

315 (a) ~~The director through the center shall share and provide homeland security activity~~  
316 ~~information to the director of emergency management and homeland security, including,~~  
317 ~~but not limited to, threats, warnings, and developing situations, when an investigation~~  
318 ~~reveals conduct of a terroristic nature or in material support of terroristic activities,~~  
319 ~~recruitment of terrorists, or information on the activities of known terrorist organizations.~~

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

324 ~~(c) The center shall allow unrestricted access to secure communications equipment to the~~  
325 ~~director of emergency management and homeland security and his or her representatives~~  
326 ~~who possess the appropriate federally approved security clearances for the dissemination~~  
327 ~~of homeland security activity information by the United States Department of Homeland~~  
328 ~~Security.~~

329 ~~(d) The director of emergency management and homeland security shall serve as this~~  
330 ~~state's security manager for the purpose of identifying and processing state personnel for~~  
331 ~~security clearances through the United States Department of Homeland Security.~~

332 35-3-204.

333 (a) Membership in the center shall consist of the director, the director of emergency  
334 management and homeland security, the commissioner of public safety, the commissioner  
335 of natural resources, the commissioner of corrections, the state fire marshal, the Attorney  
336 General, the adjutant general, and state and local fire service, law enforcement, homeland  
337 security, emergency management, corrections, and other appropriate agencies and  
338 disciplines as determined by the director of emergency management and homeland security  
339 in consultation with the director. Such members shall may assign or make available their  
340 analysts or other personnel to the center as such need is determined by the director of  
341 emergency management and homeland security.

342 (b) The director of emergency management and homeland security ~~shall~~ may maintain  
343 Georgia Emergency Management and Homeland Security Agency analysts in the center  
344 ~~as needed~~ as determined by the director of emergency management and homeland security.  
345 Such analysts assigned to the center who are funded by or employees of the Georgia  
346 Emergency Management and Homeland Security Agency shall focus on homeland security  
347 activity."

348

**PART IV**

349

**SECTION 4-1.**

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