

The Senate Committee on Public Safety offered the following substitute to HB 779:

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 revise the duties of the director of the Georgia Emergency
3 Management and Homeland Security Agency; to provide for definitions; to create the Board
4 of Homeland Security; to provide for membership for such board; to provide for duties and
5 responsibilities of such board; to amend Title 35 of the Official Code of Georgia Annotated,
6 relating to law enforcement officers and agencies, so as to revise the duties of the director
7 of the Georgia Bureau of Investigation pertaining to the Georgia Information Sharing and
8 Analysis Center; to revise the duties of the Georgia Information Sharing and Analysis
9 Center; to provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **PART I**
12 **SECTION 1-1.**

13 Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency
14 management, is amended by revising Code Section 38-3-3, relating to definitions, as follows:
15 "38-3-3.

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

17 (1) 'Bioterrorism' means the intentional creation or use of any microorganism, virus,
18 infectious substance, or any component thereof, whether naturally occurring or
19 bioengineered, to cause death, illness, disease, or other biological malfunction in a
20 human, animal, plant, or other living organism in order improperly or illegally to
21 influence the conduct of government, to interfere with or disrupt commerce, or to
22 intimidate or coerce a civilian population.

23 (2) 'Emergency management' means the preparation for the carrying out of all emergency
24 functions other than functions for which military forces are primarily responsible to
25 prevent, minimize, and repair injury and damage resulting from emergencies, energy

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

40 (2.1) 'Emergency Operations Command' means the unified command group comprising
 41 the director of emergency management and homeland security, the director of the
 42 Georgia Bureau of Investigation, the commissioner of public safety, the commissioner
 43 of natural resources, the commissioner of transportation, and the adjutant general.

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

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

57 (4.1) 'Homeland security activity' shall have the same meaning as provided for in Code
 58 Section 35-3-200.

59 ~~(4.1)~~(4.2) 'Pandemic influenza emergency' means the declaration by the World Health
 60 Organization of at least a Phase 5 Pandemic Alert for influenza occurring in the United
 61 States or the State of Georgia or the declaration by the Centers for Disease Control and

62 Prevention of at least a Category 2 Pandemic Severity Index for influenza occurring in
63 the United States or the State of Georgia.

64 (5) 'Political subdivision' means:

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

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

68 (C) Counties.

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

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

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

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

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

83 **SECTION 1-2.**

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

87 "38-3-20.

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

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

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

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

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

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

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

115 (3) Have ~~command and control~~ authority over ~~all operational~~ areas involving imminent
 116 or current terrorist activity within this state, including, but not limited to, leading and
 117 directing the actions of the Homeland Security Task Force and the ~~Homeland Security~~
 118 ~~Central Command when activated by the Governor~~ Emergency Operations Command and
 119 such Emergency Operations Command shall be responsible for coordinating the public
 120 safety response to natural disasters, homeland security activities, and other emergencies
 121 within the state;

122 (4) Coordinate the activities of all organizations for emergency management and
 123 homeland security within the state;

124 (5) Maintain liaison with and cooperate with emergency management agencies and
 125 organizations of other states and of the federal government;

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

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

132 (8) Coordinate and review ~~all~~ activities involving homeland security within any agency,
 133 authority, or entity of this state, including, but not limited to, ~~oversight of~~ homeland

134 security activities found within the Department of Public Safety, the Georgia Bureau of
 135 Investigation, the Georgia National Guard, the Department of Natural Resources, the
 136 Department of Community Health, and the Department of Public Health;

137 (9) Evaluate information developed by the criminal justice community in regard to
 138 threats or potential threats of terrorism; ~~and~~

139 (10) Serve as this state's security manager for the purpose of identifying and processing
 140 state personnel for security clearances through the United States Department of
 141 Homeland Security; and

142 (11) Have such additional authority, duties, and responsibilities authorized by Article 1,
 143 this article, and Article 3 of this chapter as may be prescribed by the Governor and such
 144 additional authority, duties, and responsibilities as described in Article 9 of Chapter 3 of
 145 Title 35 and Part 4 of Article 2 of Chapter 5 of Title 46, the 'Georgia Emergency
 146 Telephone Number 9-1-1 Service Act of 1977,' as amended.

147 (f) The director of emergency management and homeland security shall also be the
 148 disaster coordinator and shall act for the Governor when requested to do so."

149 **SECTION 1-3.**

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

153 **SECTION 1-4.**

154 Said chapter is further amended by adding a new article to read as follows:

155 "ARTICLE 2A

156 38-3-40.

157 As used in this article, the term:

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

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

160 (3) 'Critical infrastructure' shall have the same meaning as set forth in Code
 161 Section 16-11-220.

162 (4) 'Domestic terrorism' shall have the same meaning as set forth in Code
 163 Section 16-11-220.

164 (5) 'Public transportation system' shall have the same meaning as set forth in Code
 165 Section 16-11-220.

166 (6) 'Serious bodily harm' shall have the same meaning as set forth in Code
 167 Section 16-11-220.

168 (7) 'State or government facility' shall have the same meaning as set forth in Code
 169 Section 16-11-220.

170 38-3-41.

171 (a) There is created a Board of Homeland Security that shall, for administrative purposes
 172 only, be attached to the Georgia Emergency Management and Homeland Security Agency.

173 (b) The board shall consist of 16 members who shall be as follows:

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

175 (2) The director of emergency management and homeland security;

176 (3) The director of the Georgia Bureau of Investigation;

177 (4) The commissioner of public safety;

178 (5) The Attorney General or his or her designee who shall be the deputy attorney general
 179 or an assistant attorney general;

180 (6) The adjutant general;

181 (7) The commissioner of natural resources;

182 (8) The commissioner of public health;

183 (9) The State School Superintendent;

184 (10) The commissioner of transportation;

185 (11) The Commissioner of Agriculture;

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

187 (13) Five appointees of the Governor who shall be individuals from the public or private
 188 sector who are directly involved in policy, program, security, or funding activities
 189 relevant to homeland security or infrastructure protection; provided, however, that one
 190 such appointment shall be a sheriff, one such appointment shall be a member of the
 191 Senate, one such appointment shall be a member of the House of Representatives, and
 192 one such appointment shall be a chief executive of a law enforcement agency of a county
 193 or a municipality. Such appointees under this paragraph shall serve at the pleasure of the
 194 Governor.

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

198 (2) Members of the board who are state or local government officials, other than
 199 legislative members, or state or local government employees shall receive no
 200 compensation for their services on the board, but they may be reimbursed for expenses
 201 incurred by them in the performance of their duties as members of the board in the same

202 manner as they are reimbursed for expenses in their capacities as state or local
 203 government officials or state or local government employees.

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

208 (4) Funds for the reimbursement of the expenses of state or local government officials,
 209 other than legislative members, and state or local government employees shall come from
 210 funds appropriated to or otherwise available to their respective governments,
 211 departments, authorities, or agencies.

212 38-3-42.

213 (a) The board shall advise the Governor on:

214 (1) The implementation of the homeland security strategy by state and local agencies and
 215 provide specific guidance and counsel for helping those agencies implement the strategy;
 216 and

217 (2) All matters related to the planning, development, coordination, and implementation
 218 of initiatives to promote the homeland security strategy of the state.

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

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

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

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

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

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

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

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

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

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

- 238 (7) Providing the center certain forms of authority to aid the Georgia Emergency
 239 Management and Homeland Security Agency in implementing the homeland security
 240 strategy of this state; and
- 241 (8) Using technological resources to:
- 242 (A) Facilitate the interoperability of governmental technology resources, including
 243 data, networks, and applications;
- 244 (B) Coordinate the warning and alert systems of state and local agencies;
- 245 (C) Incorporate multidisciplinary approaches to homeland security; and
- 246 (D) Improve the security of governmental and private sector information technology
 247 and information resources.
- 248 (d) The homeland security strategy shall complement and operate in coordination with
 249 federal strategic guidance on homeland security.
- 250 (e) The board shall adopt rules and regulations which shall be adopted, established,
 251 promulgated, amended, repealed, filed, and published in accordance with the applicable
 252 provisions and procedures set forth in Chapter 13 of Title 50, the 'Georgia Administrative
 253 Procedure Act.' The courts shall take judicial notice of any such rules or regulations. As
 254 used in this subsection, the term 'rules and regulations' shall have the same meaning as the
 255 word 'rule' as defined in paragraph (6) of Code Section 50-13-2."

256 **PART II**

257 **SECTION 2-1.**

258 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
 259 agencies, is amended by revising Article 9 of Chapter 3, relating to the Georgia Information
 260 Sharing and Analysis Center, as follows:

261 "ARTICLE 9

262 35-3-200.

263 As used in this article, the term:

- 264 (1) 'Center' means the Georgia Information Sharing and Analysis Center.
- 265 (2) 'Fusion center' means collaborative effort which combines resources, expertise,
 266 intelligence, and other information from various agencies of state and local governments
 267 with the goal of maximizing the ability of this state to detect, prevent, and respond to
 268 criminal activities or to otherwise engage in homeland security activities.
- 269 (3) 'Homeland security activity' means any activity related to the prevention or discovery
 270 of, response to, or recovery from:

- 271 (A) A terrorist attack;
 272 (B) A hostile military or paramilitary action; or
 273 (C) An extraordinary law enforcement emergency, as designated by the Governor.

274 35-3-201.

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

279 35-3-202.

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

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

285 35-3-203.

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

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

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

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

303 35-3-204.

304 (a) Membership in the center shall consist of the director, the director of emergency
305 management and homeland security, the commissioner of public safety, the commissioner
306 of natural resources, the commissioner of corrections, the state fire marshal, the Attorney
307 General, the adjutant general, and state and local fire service, law enforcement, homeland
308 security, emergency management, corrections, and other appropriate agencies and
309 disciplines as determined by the director of emergency management and homeland security
310 ~~in consultation with the director~~. Such members ~~shall~~ may assign or make available their
311 analysts or other personnel to the center as such need is determined by the director of
312 ~~emergency management and homeland security~~.

313 (b) The director of emergency management and homeland security ~~shall~~ may maintain
314 Georgia Emergency Management and Homeland Security Agency analysts in the center
315 ~~as needed~~ as determined by the director of emergency management and homeland security.
316 Such analysts assigned to the center who are funded by or employees of the Georgia
317 Emergency Management and Homeland Security Agency shall focus on homeland security
318 activity."

319

PART III

320

SECTION 3-1.

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