

Senate Bill 441

By: Senators Hatchett of the 50th, Gooch of the 51st, Miller of the 49th, Goodman of the 8th,
Butler of the 55th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts in general,
2 so as to provide for the reestablishment of the Criminal Case Data Exchange Board as an
3 advisory board to The Council of Superior Court Clerks of Georgia; to provide for
4 membership, selection of officers, meetings, and duties of such board; to provide for
5 continuation in office of current members; to provide for duties of The Council of Superior
6 Court Clerks of Georgia; to provide for transmission of data to the Georgia Crime
7 Information Center; to provide for definitions; to provide for implementation; to provide that
8 a superior court shall ensure that its operations do not conflict with the uniform standards
9 issued by The Council of Superior Court Clerks of Georgia; to provide for annual reports by
10 the council detailing activities and progress of groups within the Criminal Case Data
11 Exchange Board; to amend Title 35 of the Official Code of Georgia Annotated, relating to
12 law enforcement officers and agencies, so as to provide for compliance with data
13 transmission requirements; to repeal provisions concerning the Criminal Case Data Exchange
14 Board; to provide for required reports; to amend Chapter 25 of Title 50 of the Official Code
15 of Georgia Annotated, relating to the Georgia Technology Authority, so as to provide for
16 release of funds from the technology empowerment fund, subject to certain conditions; to
17 provide for legislative findings and intent; to provide for a short title; to provide for related
18 matters; to repeal conflicting laws; and for other purposes.

S. B. 441

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 **SECTION 1.**

21 (a) The General Assembly finds that:

22 (1) The state's current system for sharing criminal case data is not adequate to provide
23 to all appropriately interested parties, including, but not limited to, law enforcement
24 agencies and officers, courts, crime victims and other impacted individuals, housing
25 providers, and employers, complete criminal case data;

26 (2) One recent report indicates there may be as many as 7 million criminal charges
27 without a final disposition indicated, and, of those, as many as 5.4 million criminal
28 charges have languished for years;

29 (3) Georgia's citizens and businesses are harmed by incomplete criminal case data. For
30 example, in thousands of cases, as a result of incomplete criminal case data, citizens'
31 employability and housing opportunities have been negatively impacted; and

32 (4) A more uniform, modern system and framework for handling criminal case data will
33 support the state in meeting its obligations to victims to keep them informed as their
34 perpetrators make their way through the criminal justice system.

35 (b) It is the intent of the General Assembly that criminal case data be complete and
36 accurately reported to the appropriate state data base and be accessible to state and local
37 criminal justice agencies, employers, housing providers, victims, and all citizens.

38 **SECTION 2.**

39 This Act shall be known and may be cited as the "Criminal Records Responsibility Act."

40 **SECTION 3.**

41 Title 15 of the Official Code of Georgia Annotated, relating to courts in general, is amended
42 in Article 1 of Chapter 6, relating to general provisions for superior courts, by revising

43 subsection (a) of Code Section 15-6-11, relating to electronic filings of pleadings and
44 documents, electronic payments and remittances, access, and public disclosure, as follows:

45 "(a)(1) Pursuant to rules promulgated by the Criminal Case Data Exchange Board, on and
46 after January 1, 2019 in effect on June 30, 2022, a superior court shall provide for the
47 filing of pleadings in criminal cases and any other document related thereto and for the
48 acceptance of payments and remittances by electronic means.

49 (2) The Council of Superior Court Clerks shall submit the uniform standards adopted by
50 the board pursuant to paragraph (5) of subsection (h) of Code Section 15-6-50.3 to the
51 Council of Superior Court Judges. The chief superior court judge of each judicial circuit
52 shall assist the superior court clerk with the implementation of such uniform standards.
53 A superior court judge may order any party to provide data needed by the clerk to
54 facilitate transmission of data."

55

SECTION 4.

56 Said title is further amended in Article 2 of Chapter 6, relating to clerks of superior courts,
57 by adding new subsections to Code Section 15-6-50.2, relating to The Council of Superior
58 Court Clerks of Georgia, to read as follows:

59 "(f) The council shall issue uniform standards not inconsistent with the uniform standards
60 promulgated by the Criminal Case Data Exchange Board pursuant to Code Section
61 15-6-50.3.

62 (g) By January 15 of each year, the council shall prepare a report detailing the activities
63 of the Criminal Case Data Exchange Board and the progress of the represented groups
64 within the board's membership to effect the uniform standards prescribed in paragraph (5)
65 of subsection (h) of Code Section 15-6-50.3 for the previous year. Such report shall be
66 transmitted electronically or mailed to the office of the chairs of the Senate Judiciary
67 Committee and the House Committee on Judiciary and to the Governor, Lieutenant

68 Governor, Speaker of the House, and Chief Justice of the Supreme Court of Georgia no
69 later than January 15 of each year."

70 **SECTION 5.**

71 Said title is further amended in Article 2 of Chapter 6, relating to clerks of superior courts,
72 by adding a new Code section to read as follows:

73 "15-6-50.3.

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

75 (1) 'Board' shall mean the Criminal Case Data Exchange Board.

76 (2) 'Predecessor board' shall mean the Criminal Case Data Exchange Board, which was
77 established as a board to the Criminal Justice Coordinating Council in 2018 by an Act of
78 the General Assembly.

79 (b) The Criminal Case Data Exchange Board is reestablished as an advisory board to The
80 Council of Superior Court Clerks of Georgia.

81 (c) The board shall consist of 19 members as follows:

82 (1) The executive director of The Council of Superior Court Judges of Georgia, the
83 executive director of The Council of State Court Judges of Georgia, the executive director
84 of The Council of Superior Court Clerks of Georgia, the executive director of the
85 Prosecuting Attorneys' Council, the chairperson of the State Board of Pardons and
86 Paroles, the commissioner of corrections, the commissioner of community supervision,
87 the director of the Georgia Bureau of Investigation, the director of the Office of Planning
88 and Budget, the director of the Administrative Office of the Courts, the chief information
89 officer of the Georgia Technology Authority, the executive director of the Georgia
90 Sheriffs' Association, and the executive director of the Georgia Association of Chiefs of
91 Police, provided that any such member may allow a designee to represent him or her at
92 a board meeting and vote in his or her stead; and

93 (2) Six members, one of whom is a superior court judge, one of whom is a state court
94 judge, one of whom is a clerk of a superior court, one of whom is a district attorney, one
95 of whom is a sheriff of a county, and one of whom is a police chief of a municipality,
96 shall be appointed by the Governor for terms of four years; provided, however, that any
97 person who, as of June 30, 2022, was serving as a member of the predecessor board
98 pursuant to an appointment by the Governor shall continue to serve as a member of the
99 board for the remainder of the term of such appointment; and provided, further, that no
100 person shall serve beyond the time he or she holds the office by reason of which he or she
101 was initially eligible for appointment.

102 (d) In the event of death, resignation, disqualification, or removal of any member of the
103 board for any reason, vacancies shall be filled in the same manner as the original
104 appointment and successors shall serve for the unexpired term.

105 (e) Membership on the board shall not constitute public office, and no member shall be
106 disqualified from holding public office by reason of his or her membership on the board.

107 (f) The board shall elect a chairperson from among its membership and may elect such
108 other officers and committees as it considers appropriate.

109 (g) Members of the board shall serve without compensation, although each member of the
110 board shall be reimbursed for actual expenses incurred in the performance of his or her
111 duties from funds available to The Council of Superior Court Clerks of Georgia. Such
112 reimbursement shall be limited to all travel and other expenses necessarily incurred through
113 service on the board, in compliance with this state's travel rules and regulations; provided,
114 however, that in no case shall a member of the board be reimbursed for expenses incurred
115 in the member's capacity as the representative of another state agency.

116 (h) The board shall:

117 (1) Meet no less than quarterly at such times and places as it shall determine necessary
118 or convenient to perform its duties and also upon the call of the chairperson of the board,
119 a designee of The Council of Superior Court Clerks of Georgia, or the Governor;

- 120 (2) Maintain minutes of its meetings;
- 121 (3) Participate in the review and improvement of this state's criminal case data exchange
122 and management system;
- 123 (4) Using the combined expertise and experience of its members, provide regular advice
124 and counsel to The Council of Superior Court Clerks of Georgia to enable such council
125 and its members to carry out its statutory duties under this article;
- 126 (5) By September 1, 2022, promulgate uniform standards for the creation and
127 transmission of electronic criminal history data by and between local and state criminal
128 justice agencies. Such data shall include arrests; indictments, accusations, information,
129 and other formal charges; and final dispositions arising therefrom, including, but not
130 limited to, convictions;
- 131 (6) Make recommendations for the improvement of criminal history data sharing for the
132 benefit of the public, employers, and law enforcement;
- 133 (7) Carry out such duties that may be required by federal law or regulation so as to
134 enable this state to receive and disburse federal funds for criminal case data exchange and
135 management; and
- 136 (8) By November 1, 2022, after having conducted a comprehensive review of automated
137 victim notification systems, make a recommendation for adoption of an automated system
138 in Georgia that provides for individualized notification to victims of certain occurrences
139 in each case involving the victim, including, but not limited to, occurrences of arrest,
140 pre-trial release, court hearings, and sentencing. Such system shall also be able to
141 reconcile individuals' criminal data at all steps of the data exchange process. Such
142 recommendation and any accompanying report shall be transmitted to the director of the
143 Georgia Crime Information Center, the executive director of the Georgia Sheriff's
144 Association, and the executive director of the Prosecuting Attorneys' Council and be
145 available to all members of the board. Nothing in this Code section shall be construed
146 to limit or otherwise prevent criminal justice agencies from improving the organization

147 of their respective data or developing and implementing, individually or collectively, an
 148 automated victim notification system for crime victims in this state during or after the
 149 time the comprehensive review of automated victim notification systems is being
 150 conducted.

151 (i) Public access to data that are collected or transmitted via the criminal case information
 152 exchange shall remain the responsibility of the Georgia Crime Information Center. No
 153 release of collected data shall be made by or through the Georgia Technology Authority."

154 **SECTION 6.**

155 Said title is further amended in Article 2 of Chapter 6, relating to clerks of superior courts,
 156 by revising subparagraph (a)(4)(B) and paragraph (18) of subsection (a) of Code Section
 157 15-6-61, relating to duties of clerks generally and computerized record-keeping system, as
 158 follows:

159 "(B) An automated criminal case management system which shall contain a summary
 160 record of all criminal indictments in which true bills are rendered and all criminal
 161 accusations filed in the office of clerk of superior court in accordance with rules
 162 promulgated by ~~the Criminal Case Data Exchange Board~~ The Council of Superior
 163 Court Clerks of Georgia. The criminal case management system shall contain entries
 164 of other matters of a criminal nature filed with the clerk, including quasi-civil
 165 proceedings and entries of cases which are ordered dead docketed. When a case is dead
 166 docketed, all witnesses who may have been subpoenaed therein shall be released from
 167 further attendance until resubpoenaed; and"

168 "(18) To electronically collect all data elements required ~~in pursuant to~~ subsection (g) of
 169 Code Section 35-3-36, and such clerk of superior court ~~may~~ shall transmit such data to
 170 ~~the Georgia Superior Court Clerks' Cooperative Authority in a form and format required~~
 171 ~~by such authority and~~ The Georgia Crime Information Center, in a form and format
 172 required by and ~~Council of Superior Court Clerks of Georgia.~~ consistent with uniform

173 standards issued by The Council of Superior Court Clerks of Georgia. ~~Any data~~
174 ~~transmitted to the authority pursuant to this paragraph shall be transmitted to the Georgia~~
175 ~~Crime Information Center in satisfaction of the clerk's duties under subsection (g) of~~
176 ~~Code Section 35-3-36 and to the Georgia Courts Automation Commission which shall~~
177 provide the data to the Administrative Office of the Courts for use by the state judicial
178 branch upon request. Public access to said data shall remain the responsibility of only the
179 Georgia Crime Information Center. ~~No release of collected data shall be made by or~~
180 ~~through the authority;"~~

181 **SECTION 7.**

182 Said title is further amended in Article 1 of Chapter 7, relating to general provisions for state
183 courts of counties, by revising subsection (a) of Code Section 15-7-5, relating to electronic
184 filings of pleadings and documents, electronic payments and remittances, access, and public
185 disclosure, as follows:

186 "(a)(1) Pursuant to rules promulgated by the Criminal Case Data Exchange Board ~~on and~~
187 ~~after January 1, 2019,~~ in effect on June 30, 2022, a state court shall provide for the filing
188 of pleadings in criminal cases and any other document related thereto and for the
189 acceptance of payments and remittances by electronic means.

190 (2) The Council of Superior Court Clerks shall submit the uniform standards adopted by
191 the board pursuant to paragraph (5) of subsection (h) of Code Section 15-6-50.3 to the
192 Council of State Court Judges. The chief state court judge of each county shall assist the
193 state court clerk with the implementation of such uniform standards. A state court judge
194 may order any party to provide data needed by the clerk to facilitate transmission of data."

195

SECTION 8.

196 Said title is further amended in Article 1 of Chapter 18, relating to general provisions for
197 prosecuting attorneys, by revising Code Section 15-18-6, relating to duties of district
198 attorney, as follows:

199 "15-18-6.

200 The duties of the district attorneys within their respective circuits are:

201 (1) To attend each session of the superior courts unless excused by the judge thereof and
202 to remain until the business of the state is disposed of;

203 (2) To attend on the grand juries, advise them in relation to matters of law, and swear and
204 examine witnesses before them;

205 (3) To administer the oaths the laws require to the grand and trial jurors and to the
206 bailiffs or other officers of the court and otherwise to aid the presiding judge in
207 organizing the courts as he may require;

208 (4) To draw up all indictments or presentments, when requested by the grand jury, and
209 to prosecute all indictable offenses;

210 (5) To prosecute civil actions to enforce any civil penalty set forth in Code Section
211 40-6-163 and to prosecute or defend any other civil action in the prosecution or defense
212 of which the state is interested, unless otherwise specially provided for;

213 (6) To attend before the appellate courts when any criminal case emanating from their
214 respective circuits is tried, to argue the same, and to perform any other duty therein which
215 the interest of the state may require;

216 (7) To advise law enforcement officers concerning the sufficiency of evidence, warrants,
217 and similar matters relating to the investigation and prosecution of criminal offenses;

218 (8) To collect all money due the state in the hands of any escheators and to pay it over
219 to the educational fund, if necessary, compelling payment by rule or order of court or
220 other legal means;

221 (9) To collect all claims of the state which they may be ordered to collect by the state
 222 revenue commissioner and to remit the same within 30 days after collection; and on
 223 October 1 of every year to report to the state revenue commissioner the condition of the
 224 claims in their hands in favor of the state, particularly specifying:

225 (A) The amounts collected and paid, from what sources received and for what
 226 purposes, and to whom paid;

227 (B) What claims are unpaid and why;

228 (C) What judgments have been obtained, when, and in what court; and

229 (D) What actions are instituted, in what courts, and their present progress and future
 230 prospects;

231 (10) To ensure disposition information is submitted in accordance with subsection (g)
 232 of Code Section 35-3-36 when a final disposition decision is made by a district attorney;

233 ~~(10)~~(11) To assist victims and witnesses of crimes through the complexities of the
 234 criminal justice system and ensure that the victims of crimes are apprised of the rights
 235 afforded them under the law; and

236 ~~(11)~~(12) To perform such other duties as are or may be required by law or which
 237 necessarily appertain to their office."

238

SECTION 9.

239 Said title is further amended in Article 3 of Chapter 18, relating to solicitors-general of the
 240 state courts, by revising subsection (a) of Code Section 15-18-66, relating to duties and
 241 authority, as follows:

242 "(a) The duties of the solicitors-general within their respective counties are:

243 (1) To attend each session of the state court when criminal cases are to be heard unless
 244 excused by the judge thereof and to remain until the business of the state is disposed of;

245 (2) To administer the oaths required by law to the bailiffs or other officers of the court
 246 and otherwise to aid the presiding judge in organizing the court as may be necessary;

247 (3) To file accusations on such criminal cases deemed prosecutable and, subject to
 248 paragraph (10) of subsection (b) of this Code section, to prosecute all accused offenses;
 249 (4) To ensure disposition information is submitted in accordance with subsection (g) of
 250 Code Section 35-3-36 when a final disposition decision is made by a solicitor-general;
 251 ~~(4)~~(5) To attend before the appellate courts when any criminal case in which the
 252 solicitor-general represents the state is heard, to argue the same, and to perform any other
 253 duty therein which the interest of the state may require; and
 254 ~~(5)~~(6) To perform such other duties as are or may be required by law or which
 255 necessarily appertain to their office."

256

SECTION 10.

257 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
 258 agencies, is amended in Article 2 of Chapter 3, relating to the Georgia Crime Information
 259 Center, by revising subsection (b) of Code Section 35-3-32, relating to establishment of
 260 council, composition, and duties and responsibilities of the Georgia Crime Information
 261 Center Council generally, as follows:

262 "(b) The duties and responsibilities of the council are to:

263 (1) Advise and assist in the establishment of policies under which the center is to be
 264 operated;

265 (2) Advise and assist in updating the policies under which the center is to be operated,
 266 to the extent that such policies are necessary to comply with the uniform standards
 267 promulgated pursuant to paragraph (5) of subsection (h) of Code Section 15-6-50.3 issued
 268 by The Council of Superior Court Clerks of Georgia;

269 ~~(2)~~(3) Ensure that the information obtained pursuant to this article shall be restricted to
 270 the items specified in this article and ensure that the center is administered so as not to
 271 accumulate any information or distribute any information that is not specifically approved
 272 in this article;

273 ~~(3)~~(4) Ensure that adequate security safeguards are incorporated so that the data available
 274 through this system is used only by properly authorized persons and agencies;
 275 ~~(4)~~(5) Establish appropriate disciplinary measures to be taken by the center in the
 276 instance of violations of data reporting or dissemination of laws, rules, and regulations
 277 by criminal justice agencies or members thereof covered by this article; and
 278 ~~(5)~~(6) Establish other policies which provide for the efficient and effective use and
 279 operation of the center under the limitations imposed by the terms of this article."

280

SECTION 11.

281 Said title is further amended in Article 2 of Chapter 3, relating to the Georgia Crime
 282 Information Center, by adding a new paragraph to subsection (a) of Code Section 35-3-33,
 283 relating to powers and duties of center generally, to read as follows:

284 "(16.1) Provide at least quarterly to each clerk of superior court in this state, and upon
 285 request by any such clerk, a report detailing the number of open criminal charges, time
 286 expired restricted charges, and closed criminal charges for each county, respectively.
 287 Such report shall also be provided to any judge or prosecuting attorney of this state, upon
 288 request. Such report may be transmitted electronically or by mail in the discretion of the
 289 director of the center."

290

SECTION 12.

291 Said title is further amended in Article 2 of Chapter 3, relating to the Georgia Crime
 292 Information Center, by revising subsection (g) of Code Section 35-3-36, relating to duties
 293 of state criminal justice agencies as to submission of fingerprints, photographs, and other
 294 identifying data to center and responsibility for accuracy, as follows:

295 "(g)(1) Criminal justice agencies within this state, all AH persons in charge of law
 296 enforcement agencies, clerks of court or the Georgia Superior Court Clerks' Cooperative
 297 Authority as applicable, municipal judges when such judges do not have a clerk,

298 magistrates, persons in charge of community supervision, juvenile probation, or Article
 299 6 of Chapter 8 of Title 42 probation offices, and the State Board of Pardons and Paroles
 300 shall transmit to the center the information described in Code Section 35-3-33 within 30
 301 days of the creation or receipt of such information, except as provided in subsection (d)
 302 of this Code section, on the basis of the forms and instructions to be provided by the
 303 center. Such forms and instructions shall not be inconsistent with the uniform standards
 304 promulgated pursuant to paragraph (5) of subsection (h) of Code Section 15-6-50.3 issued
 305 by The Council of Superior Court Clerks of Georgia.
 306 (2) Compliance with the provisions in paragraph (1) of this subsection is mandatory,
 307 regardless of whether the center requests the information described in Code
 308 Section 35-3-33."

309

SECTION 13.

310 Said title is further amended in Chapter 6A, relating to the Criminal Justice Coordinating
 311 Council, by revising Code Section 35-6A-2, relating to creation of the Criminal Justice
 312 Coordinating Council, assignment to the Georgia Bureau of Investigation, and definitions,
 313 as follows:

314 "35-6A-2.

315 (a) There is established the Criminal Justice Coordinating Council of the State of Georgia
 316 which is assigned to the Georgia Bureau of Investigation for administrative purposes only,
 317 as prescribed in Code Section 50-4-3.

318 (b) As used in this chapter, the term:

319 ~~(1) 'Board' means the Criminal Case Data Exchange Board.~~

320 ~~(2) 'Council' 'council' means the Criminal Justice Coordinating Council."~~

321 **SECTION 14.**

322 Said title is further amended in Chapter 6A, relating to the Criminal Justice Coordinating
323 Council, by repealing Code Section 35-6A-13, relating to the Criminal Case Data Exchange
324 Board, membership, and operation.

325 **SECTION 15.**

326 Said title is further amended in Chapter 6A, relating to the Criminal Justice Coordinating
327 Council, by repealing Code Section 35-6A-14, relating to role of the Criminal Case Data
328 Exchange Board and public access.

329 **SECTION 16.**

330 Chapter 25 of Title 50 of the Official Code of Georgia Annotated, relating to the Georgia
331 Technology Authority, is amended by adding a new subsection to Code Section 50-25-7.1,
332 relating to technology empowerment fund, appropriations, initiatives, and steering
333 committee, to read as follows:

334 "(e) Upon enactment of enforceable uniform standards for the submission of electronic
335 records to the Georgia Crime Information Center promulgated by The Council of Superior
336 Court Clerks of Georgia, and subject to the availability of appropriations and moneys
337 otherwise available to the authority, the authority is authorized to release funds from the
338 technology empowerment fund for the purpose of installing or upgrading criminal justice
339 information systems to be used by criminal justice agencies for complying with their
340 respective obligations to provide information and data to the Georgia Crime Information
341 Center."

342 **SECTION 17.**

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