

House Bill 1050

By: Representatives Frye of the 122<sup>nd</sup>, Evans of the 57<sup>th</sup>, Roberts of the 52<sup>nd</sup>, Gisler of the 121<sup>st</sup>, Sanchez of the 42<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 35-1-17 of the Official Code of Georgia Annotated, relating to state  
2 and local law enforcement actions relating to immigration laws, authority, immunity, and  
3 penalty, so as to provide for the protection of student data from immigration officials under  
4 certain circumstances; to limit government cooperation of public school employees,  
5 administrators, and officials with immigration enforcement; to prohibit the presence of  
6 immigration enforcement officers on public school premises without a valid judicial warrant  
7 or order; to restrict immigration officer liability in instances in which the officer is located  
8 on or within 300 feet of a public school site; to mandate the designation of a school  
9 administrator in each school district to be responsible for and adequately prepared for  
10 interactions with immigration enforcement personnel; to restrict the access to student records,  
11 with the exception of medical emergencies, unless a valid judicial warrant, order, or parental  
12 consent has been provided; to provide for legislative intent; to provide a definition; to  
13 provide for related matters; to provide for an effective date; to repeal conflicting laws; and  
14 for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

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Code Section 35-1-17 of the Official Code of Georgia Annotated, relating to state and local law enforcement actions relating to immigration laws, authority, immunity, and penalty, is amended by revising said Code section as follows:

"35-1-17.

(a) ~~Legislative intent.~~ It is the intent of the General Assembly to promote compliance with state law related to deterring the presence of criminal illegal aliens and require Georgia law enforcement officials to work in conjunction with federal immigration authorities and to utilize all resources made available by the federal government to assist state and local law enforcement officers in the enforcement of the laws of this state and of the United States. It is also the intent of the General Assembly to protect students in public schools in this state from unlawful, undue, or otherwise deleterious encroachments by immigration enforcement activities and actions.

(b) ~~Cooperation with federal authorities:~~

(1) To the extent authorized by federal law, state and local government employees, including law enforcement officers and prosecuting attorneys, shall send, receive, and maintain information relating to the immigration status of any individual as reasonably needed for public safety purposes. Except as provided by federal law, such employees shall not be prohibited from receiving or maintaining information relating to the immigration status of any individual or sending to or exchanging such information with other federal, state, or local governmental entities or employees for official public safety purposes. However, government employees who are employees, administrators, or officials of public schools in this state shall send, receive, and maintain information relating to the immigration status of any student to any immigration or public safety official if and only if the information is proven necessary for public safety purposes. As used in this Code section, the term 'public school' means schools operated by a county school system or an independent school system in this state.;

43 (2) State and local agencies shall promote compliance with state law related to deterring  
44 the presence of criminal illegal aliens and shall be authorized to enter into memorandums  
45 of understanding and memorandums of agreement with the United States Department of  
46 Justice, the Department of Homeland Security, or any other federal agency for the  
47 purpose of enforcing federal immigration laws, including 287(g) of the Illegal  
48 Immigration Reform and Immigrant Responsibility Act of 1996 or a similar federal  
49 program. A local agency shall seek such memorandums of understanding annually when  
50 no current memorandum of agreement is in effect;

51 (3) Except as provided by federal law, no state or local agency or department shall be  
52 prohibited from utilizing available federal resources, including ~~data bases~~ databases,  
53 equipment, grant funds, training, or participation in incentive programs for any public  
54 safety purpose related to the enforcement of ~~state and federal~~ federal and state  
55 immigration laws; ~~and~~.

56 (4) With the exception of a medical emergency condition as defined by Code  
57 Section 31-11-81, no federal, state, or local immigration agency shall access any public  
58 school database management system, including student profiles and personal information,  
59 without a judicial order, lawfully issued subpoena, or parental consent.

60 (5) When reasonably possible, applicable state agencies shall consider incentive  
61 programs and grant funding for the purpose of assisting and encouraging state and local  
62 agencies and departments to enter into agreements with federal entities and to utilize  
63 federal resources consistent with the provisions of this Code section.

64 (c) ~~Authority to transport illegal aliens.~~ If a state or local law enforcement officer has  
65 verification that a person is an illegal alien, then such officer shall be authorized to securely  
66 transport such illegal alien to a federal facility in this state or to any other temporary point  
67 of detention and to reasonably detain such illegal alien when authorized by a federal  
68 immigration detainer or federal arrest warrant. Nothing in this Code section shall be

69 construed to hinder or prevent a peace officer or law enforcement agency from arresting  
70 or detaining any criminal suspect on other criminal charges.

71 ~~(d) Authority to arrest illegal aliens.~~ When authorized by federal law, a state or local law  
72 enforcement officer shall be authorized to arrest any person based on such person's status  
73 as an illegal alien or for a violation of any federal immigration law.

74 ~~(e) Immunity.~~ A Unless acting on or within 300 feet of the outer boundary of a public  
75 school site, a law enforcement officer or government official or employee, acting in good  
76 faith to enforce immigration laws pursuant to a memorandum or an agreement with federal  
77 authorities to collect or share immigration status information, or to carry out any provision  
78 of this Code section, shall have immunity from damages or liability from such actions.

79 (f) Except as required by federal or state law, or as required to administer a federally or  
80 state supported educational program, public school employees, administrators, and officials  
81 shall adhere to the following:

82 (1) Each public school shall designate an administrator responsible for appearing in  
83 person at the public school site and interacting with federal, state, or local immigration  
84 enforcement personnel and any law enforcement agency working as an extension of said  
85 officers;

86 (2) No public school employee, administrator, or official shall allow immigration  
87 enforcement officers onto the premises of a public school without a valid judicial warrant  
88 or order. The designated administrator shall request and verify that an immigration  
89 enforcement officer has valid documentation and authority under this Code section and  
90 valid self-identification when such officer is on a public school site;

91 (3) Each public school shall be prohibited from disclosing student education records or  
92 student data as defined under Code Section 20-2-662, whether verbally, written, or in any  
93 other manner, to any immigration enforcement officer without proper legal  
94 documentation or parental consent. Any disclosure of a student's education records  
95 pursuant to a valid judicial warrant, judicial subpoena, or court order shall be in

96 accordance with the requirements set forth in Section 99.31(a)(9)(ii) of Title 34 of the  
97 Code of Federal Regulations; and

98 (4) No public school shall discipline, suspend, terminate, or otherwise punish an  
99 employee, administrator, or official for implementing the protocols of this Code section.

100 ~~(f)(g) Penalty.~~ A local governing body of a law enforcement agency that violates this  
101 Code section shall be subject to the withholding of state funding or state administered  
102 federal funding other than funds for the purposes of providing those services specified in  
103 subsection (d) of Code Section 50-36-1. As a condition of funding to a local governing  
104 body, the Department of Community Affairs, the Department of Transportation, or any  
105 other state agency that provides funding to local governing bodies shall require certification  
106 pursuant to Code Section 50-36-4 as proof of compliance with this Code section. No  
107 county commission shall be subject to the withholding of state or federal funding pursuant  
108 to this subsection when a sheriff or his or her employee violates this Code section."

109 **SECTION 2.**

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

112 **SECTION 3.**

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