

House Bill 1401

By: Representatives Gisler of the 121<sup>st</sup>, Tran of the 80<sup>th</sup>, Sanchez of the 42<sup>nd</sup>, Bell of the 75<sup>th</sup>, Park of the 107<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 2A of Title 31 of the Official Code of Georgia Annotated,  
2 relating to general provisions regarding the Department of Public Health, so as to provide for  
3 third-party audits of detention facilities that house federal immigration detainees; to provide  
4 for audit criteria; to provide for the selection of third-party auditors; to provide for reporting  
5 and publishing of annual audits; to provide for access to detention facilities to conduct annual  
6 audits; to provide for mechanisms to address a detention facility's substantial and ongoing  
7 noncompliance with federal detention standards; to provide for rules and regulations; to  
8 provide for construction; to provide for definitions; to provide for legislative findings; to  
9 provide for purposes; to provide for related matters; to repeal conflicting laws; and for other  
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 The General Assembly finds that:

14 (1) Individuals detained under federal authority in detention facilities within this state's  
15 borders must be treated humanely and in compliance with federal detention standards;

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- 16 (2) The federal government's primary responsibility for immigration detention does not  
17 preclude the state from monitoring conditions of detention facilities that affect the health,  
18 safety, and human rights of individuals held in such facilities; and  
19 (3) Independent third-party audits consistent with federal detention standards provide a  
20 necessary mechanism for transparency and accountability in the operation of detention  
21 facilities.

## 22 SECTION 2.

23 The purposes of this Act are to:

- 24 (1) Establish an independent audit process for detention facilities holding persons under  
25 federal immigration authority;  
26 (2) Require detention facilities to demonstrate compliance with federal detention  
27 standards;  
28 (3) Provide mechanisms by which the state may condition state or local cooperation with  
29 detention facilities on such facilities' compliance with federal detention standards; and  
30 (4) Increase transparency in the operation of detention facilities while avoiding direct  
31 regulation of the federal government by state or local entities.

## 32 SECTION 3.

33 Article 1 of Chapter 2A of Title 31 of the Official Code of Georgia Annotated, relating to  
34 general provisions regarding the Department of Public Health, is amended by revising Code  
35 Section 31-2A-14, which is reserved, as follows:

36 "31-2A-14.

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

- 38 (1) 'Detainee' means a noncitizen who is held in a detention facility pending immigration  
39 proceedings or removal from the United States.  
40 (2) 'Detention facility' means any facility located in this state that holds detainees.

41 (3) 'Federal detention standards' means the national detention standards published by  
42 United States Immigration and Customs Enforcement, as revised in 2025.

43 (4) 'Third-party auditor' means an independent nonprofit corporation or other accredited  
44 body experienced in the oversight of detention centers and federal detention standards.

45 (b) By October 1, 2026, the department shall:

46 (1) Establish audit criteria for detention facilities and the treatment of detainees based  
47 on federal detention standards. Such criteria shall address:

48 (A) Health care and medical care;

49 (B) Sanitation and living conditions;

50 (C) Use of force and restraints;

51 (D) Access to legal counsel;

52 (E) Access to communication;

53 (F) Grievance procedures; and

54 (G) Overall compliance with federal detention standards.

55 (2) Select a third-party auditor to conduct an annual audit of each detention facility.

56 (c)(1) An annual audit performed pursuant to this Code section shall include:

57 (A) A written report that outlines the detention facility's areas of compliance and  
58 deficiencies using the criteria established by the department under subsection (b) of this  
59 Code section;

60 (B) Written recommendations for any corrective action; and

61 (C) A summary of the annual audit which shall protect the identity of any detainees.

62 (2) A copy of each annual audit under paragraph (1) of this subsection shall be provided  
63 to the Governor, the Speaker of the House of Representatives, the President of the Senate,  
64 and the Attorney General.

65 (3) All annual audit summaries prepared under subparagraph (C) of paragraph (1) of this  
66 subsection and aggregate data prepared by the department showing compliance trends

67 based on the annual audits performed pursuant to this Code section shall be published on  
68 the department's website.

69 (d) A detention facility shall grant to any third-party auditor selected by the department  
70 to perform an annual audit under this Code section sufficient access to the detention facility  
71 to enable such auditor to perform the annual audit.

72 (e)(1) If an annual audit of a detention facility reveals that such facility has substantial  
73 and ongoing noncompliance with federal detention standards and poses a risk to the  
74 health and safety of detainees of such facility, the state shall be authorized to:

75 (A) Withhold state funding and services from the detention facility;

76 (B) Prohibit or limit agreements between local law enforcement agencies and the  
77 federal government that would place detainees in further harm; and

78 (C) Withhold state licenses or permits from the detention facility; provided, however,  
79 that the state shall not withhold any licenses or permits in the exclusive control of the  
80 federal government.

81 (2) Any action taken pursuant to paragraph (1) of this subsection shall be based on  
82 written findings of the department, which shall include the specific deficiencies and  
83 compliance issues documented in the detention facility's annual audits.

84 (f) Nothing in this Code section shall be construed as requiring state or local law  
85 enforcement agencies to assist the federal government beyond the enforcement of federal  
86 detention standards.

87 (g) The department shall promulgate such rules and regulations as may be necessary to  
88 carry out the provisions of this Code section. Reserved."

89 **SECTION 4.**

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