

SENATE SUBSTITUTE TO HB 779:

AS PASSED SENATE

**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
 119 where such Emergency Operations Command shall not usurp the operational authority
 120 of participating agencies but shall be responsible only for coordinating the public safety
 121 response to natural disasters, homeland security activities, and other emergencies within
 122 the state;

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

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

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

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

- 133 (8) Coordinate and review all activities involving homeland security within any agency,
 134 authority, or entity of this state, including, but not limited to, ~~oversight~~ of homeland
 135 security activities found within the Department of Public Safety, the Georgia Bureau of
 136 Investigation, the Georgia National Guard, the Department of Natural Resources, the
 137 Department of Community Health, and the Department of Public Health;
- 138 (9) Evaluate information developed by the criminal justice community in regard to
 139 threats or potential threats of terrorism; and
- 140 (10) Serve as this state's security manager for the purpose of identifying and processing
 141 state personnel for security clearances through the United States Department of
 142 Homeland Security; and
- 143 (11) Have such additional authority, duties, and responsibilities authorized by Article 1,
 144 this article, and Article 3 of this chapter as may be prescribed by the Governor and such
 145 additional authority, duties, and responsibilities as described in Article 9 of Chapter 3 of
 146 Title 35 and Part 4 of Article 2 of Chapter 5 of Title 46, the 'Georgia Emergency
 147 Telephone Number 9-1-1 Service Act of 1977,' as amended.
- 148 (f) The director of emergency management and homeland security shall also be the
 149 disaster coordinator and shall act for the Governor when requested to do so."

150 SECTION 1-3.

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

154 SECTION 1-4.

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

156 "ARTICLE 2A

157 38-3-40.

158 As used in this article, the term:

- 159 (1) 'Board' means the Board of Homeland Security.
- 160 (2) 'Center' means the Georgia Information Sharing and Analysis Center.
- 161 (3) 'Critical infrastructure' shall have the same meaning as set forth in Code
 162 Section 16-11-220.
- 163 (4) 'Domestic terrorism' shall have the same meaning as set forth in Code
 164 Section 16-11-220.

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

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

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

171 38-3-41.

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

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

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

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

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

178 (4) The commissioner of public safety;

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

181 (6) The adjutant general;

182 (7) The commissioner of natural resources;

183 (8) The commissioner of public health;

184 (9) The State School Superintendent;

185 (10) The commissioner of transportation;

186 (11) The Commissioner of Agriculture;

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

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

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

199 (2) Members of the board who are state or local government officials, other than
 200 legislative members, or state or local government employees shall receive no

201 compensation for their services on the board, but they may be reimbursed for expenses
 202 incurred by them in the performance of their duties as members of the board in the same
 203 manner as they are reimbursed for expenses in their capacities as state or local
 204 government officials or state or local government employees.

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

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

213 38-3-42.

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

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

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

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

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

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

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

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

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

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

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

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

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

257 **PART II**

258 **SECTION 2-1.**

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

262 "ARTICLE 9

263 35-3-200.

264 As used in this article, the term:

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

- 270 (3) 'Homeland security activity' means any activity related to the prevention or discovery
 271 of, response to, or recovery from:
- 272 (A) A terrorist attack;
 - 273 (B) A hostile military or paramilitary action; or
 - 274 (C) An extraordinary law enforcement emergency, as designated by the Governor.

275 35-3-201.

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

280 35-3-202.

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

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

286 35-3-203.

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

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

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

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

304 35-3-204.

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

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

320

PART III

321

SECTION 3-1.

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