

The House Committee on Rules offers the following substitute to SB 441:

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 the Georgia Bureau of Investigation
13 with original jurisdiction to investigate election fraud and election crimes; to provide the
14 Georgia Bureau of Investigation with subpoena power to further such investigations; to
15 provide for penalty; to provide for compliance with data transmission requirements; to repeal
16 provisions concerning the Criminal Case Data Exchange Board; to provide for required
17 reports; to amend Chapter 25 of Title 50 of the Official Code of Georgia Annotated, relating
18 to the Georgia Technology Authority, so as to provide for release of funds from the

technology empowerment fund, subject to certain conditions; to provide for legislative findings and intent; to provide for a short title; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

(a) The General Assembly finds that:

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

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

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

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

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

SECTION 2.

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

SECTION 3.

Title 15 of the Official Code of Georgia Annotated, relating to courts in general, is amended in Article 1 of Chapter 6, relating to general provisions for superior courts, by revising subsection (a) of Code Section 15-6-11, relating to electronic filings of pleadings and documents, electronic payments and remittances, access, and public disclosure, as follows:

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

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

SECTION 4.

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

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

(g) By January 15 of each year, the council shall prepare a report detailing the activities of the Criminal Case Data Exchange Board and the progress of the represented groups within the board's membership to effect the uniform standards prescribed in paragraph (5) of subsection (h) of Code Section 15-6-50.3 for the previous year. Such report shall be

transmitted electronically or mailed to the office of the chairs of the Senate Judiciary Committee and the House Committee on Judiciary and to the Governor, Lieutenant Governor, Speaker of the House, and Chief Justice of the Supreme Court of Georgia no later than January 15 of each year."

SECTION 5.

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

"15-6-50.3.

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

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

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

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

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

(1) The executive director of The Council of Superior Court Judges of Georgia, the executive director of The Council of State Court Judges of Georgia, the executive director of The Council of Superior Court Clerks of Georgia, the executive director of the Prosecuting Attorneys' Council, the chairperson of the State Board of Pardons and Paroles, the commissioner of corrections, the commissioner of community supervision, the director of the Georgia Bureau of Investigation, the director of the Office of Planning and Budget, the director of the Administrative Office of the Courts, the chief information officer of the Georgia Technology Authority, the executive director of the Georgia Sheriffs' Association, and the executive director of the Georgia Association of Chiefs of

94 Police, provided that any such member may allow a designee to represent him or her at
95 a board meeting and vote in his or her stead; and

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

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

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

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

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

119 (h) The board shall:

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

(2) Maintain minutes of its meetings;

(3) Participate in the review and improvement of this state's criminal case data exchange and management system;

(4) Using the combined expertise and experience of its members, provide regular advice and counsel to The Council of Superior Court Clerks of Georgia to enable such council and its members to carry out its statutory duties under this article;

(5) By January 1, 2023, promulgate uniform standards for the creation and transmission of electronic criminal history data by and between local and state criminal justice agencies. Such data shall include arrests; indictments, accusations, information, and other formal charges; and final dispositions arising therefrom, including, but not limited to, convictions;

(6) By September 1, 2022, prepare a report on the board's progress in developing uniform standards pursuant to paragraph (5) of this subsection and an initial draft of such uniform standards. Such report shall be transmitted electronically or mailed to the office of the chairs of the Senate Judiciary Committee and the House Committee on Judiciary; the chairs of the Senate Appropriations Committee and the House Committee on Appropriations; and to the Governor, Lieutenant Governor, Speaker of the House, and Chief Justice of the Supreme Court of Georgia no later than September 1, 2022;

(7) Make recommendations for the improvement of criminal history data sharing for the benefit of the public, employers, and law enforcement;

(8) Carry out such duties that may be required by federal law or regulation so as to enable this state to receive and disburse federal funds for criminal case data exchange and management; and

(9) By November 1, 2022, after having conducted a comprehensive review of automated victim notification systems, make a recommendation for adoption of an automated system in Georgia that provides for individualized notification to victims of certain occurrences in each case involving the victim, including, but not limited to, occurrences of arrest, pre-trial release, court hearings, and sentencing. Such system shall also be able to reconcile individuals' criminal data at all steps of the data exchange process. Such recommendation and any accompanying report shall be transmitted to the director of the Georgia Crime Information Center, the executive director of the Georgia Sheriff's Association, and the executive director of the Prosecuting Attorneys' Council and be available to all members of the board. Nothing in this Code section shall be construed to limit or otherwise prevent criminal justice agencies from improving the organization of their respective data or developing and implementing, individually or collectively, an automated victim notification system for crime victims in this state during or after the time the comprehensive review of automated victim notification systems is being conducted.

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

SECTION 6.

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

"(B) An automated criminal case management system which shall contain a summary record of all criminal indictments in which true bills are rendered and all criminal accusations filed in the office of clerk of superior court in accordance with rules

promulgated by ~~the Criminal Case Data Exchange Board~~ The Council of Superior Court Clerks of Georgia. The criminal case management system shall contain entries of other matters of a criminal nature filed with the clerk, including quasi-civil proceedings and entries of cases which are ordered dead docketed. When a case is dead docketed, all witnesses who may have been subpoenaed therein shall be released from further attendance until resubpoenaed; and"

"(18) To electronically collect all data elements required ~~in~~ pursuant to subsection (g) of Code Section 35-3-36, and such clerk of superior court ~~may~~ shall transmit such data to the ~~Georgia Superior Court Clerks' Cooperative Authority in a form and format required by such authority and The~~ Georgia Crime Information Center, in a form and format required by and Council of Superior Court Clerks of Georgia. consistent with uniform standards issued by The Council of Superior Court Clerks of Georgia. ~~Any data transmitted to the authority pursuant to this paragraph shall be transmitted to the Georgia Crime Information Center in satisfaction of the clerk's duties under subsection (g) of Code Section 35-3-36 and to the Georgia Courts Automation Commission which shall provide the data to the Administrative Office of the Courts for use by the state judicial branch upon request.~~ Public access to said data shall remain the responsibility of only the Georgia Crime Information Center. ~~No release of collected data shall be made by or through the authority;~~"

SECTION 7.

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

"(a)(1) Pursuant to rules promulgated by the Criminal Case Data Exchange Board ~~on and after January 1, 2019,~~ in effect on June 30, 2022, a state court shall provide for the filing

of pleadings in criminal cases and any other document related thereto and for the acceptance of payments and remittances by electronic means.

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

SECTION 8.

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

"15-18-6.

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

- (1) To attend each session of the superior courts unless excused by the judge thereof and to remain until the business of the state is disposed of;
- (2) To attend on the grand juries, advise them in relation to matters of law, and swear and examine witnesses before them;
- (3) To administer the oaths the laws require to the grand and trial jurors and to the bailiffs or other officers of the court and otherwise to aid the presiding judge in organizing the courts as he may require;
- (4) To draw up all indictments or presentments, when requested by the grand jury, and to prosecute all indictable offenses;
- (5) To prosecute civil actions to enforce any civil penalty set forth in Code Section 40-6-163 and to prosecute or defend any other civil action in the prosecution or defense of which the state is interested, unless otherwise specially provided for;

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

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

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

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

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

(B) What claims are unpaid and why;

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

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

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

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

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

SECTION 9.

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

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

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

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

(3) To file accusations on such criminal cases deemed prosecutable and, subject to paragraph (10) of subsection (b) of this Code section, to prosecute all accused offenses;

(4) To ensure disposition information is submitted in accordance with subsection (g) of Code Section 35-3-36 when a final disposition decision is made by a solicitor-general;

~~(4)~~(5) To attend before the appellate courts when any criminal case in which the solicitor-general represents the state is heard, to argue the same, and to perform any other duty therein which the interest of the state may require; and

~~(5)~~(6) To perform such other duties as are or may be required by law or which necessarily appertain to their office."

SECTION 10.

Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and agencies, is amended in Code Section 35-3-4, relating to powers and duties of the Georgia Bureau of Investigation generally, by revising subsection (a) as follows:

"(a) It shall be the duty of the bureau to:

(1) Take, receive, and forward fingerprints, photographs, descriptions, and measurements of persons in cooperation with the bureaus and departments of other states and of the United States;

- 274 (2) Exchange information relating to crime and criminals;
- 275 (3) Keep permanent files and records of such information procured or received;
- 276 (4) Provide for the scientific investigation of articles used in committing crimes or
- 277 articles, fingerprints, or bloodstains found at the scene of a crime;
- 278 (5) Provide for the testing and identification of weapons and projectiles fired therefrom;
- 279 (6) Acquire, collect, classify, and preserve any information which would assist in the
- 280 identification of any deceased individual who has not been identified after the discovery
- 281 of such deceased individual;
- 282 (7) Acquire, collect, classify, and preserve immediately any information which would
- 283 assist in the location of any missing person, including any minor, and provide
- 284 confirmation as to any entry for such a person to the parent, legal guardian, or next of kin
- 285 of that person and the bureau shall acquire, collect, classify, and preserve such
- 286 information from such parent, guardian, or next of kin;
- 287 (8) Exchange such records and information as provided in paragraphs (6) and (7) of this
- 288 subsection with, and for the official use of, authorized officials of the federal government,
- 289 the states, cities, counties, and penal and other institutions. With respect to missing
- 290 minors, such information shall be transmitted immediately to other law enforcement
- 291 agencies;
- 292 (9) Identify and investigate violations of Article 4 of Chapter 7 of Title 16;
- 293 (10) Identify and investigate violations of Part 2 of Article 3 of Chapter 12 of Title 16,
- 294 relating to offenses related to minors;
- 295 (11) Identify and investigate violations of Article 8 of Chapter 9 of Title 16;
- 296 (12) Identify and investigate violations of Article 5 of Chapter 8 of Title 16;
- 297 (13) Identify and investigate violations of Code Section 16-5-46;
- 298 (14) Identify and investigate violations of Article 8 of Chapter 5 of Title 16;
- 299 (15)(A) Upon request, provide to the board an analysis of criminal history record
- 300 information to assist the board in determining a sexual offender's risk assessment

classification in accordance with the board's duties as specified in Code Section 42-1-14.

(B) As used in this paragraph, the term:

(I) 'Board' means the Sexual Offender Registration Review Board.

(ii) 'Criminal history record information' has the same meaning as set forth in Code Section 35-3-30.

(iii) 'Risk assessment classification' means the level into which a sexual offender is placed based on the board's assessment.

(iv) 'Sexual offender' has the same meaning as set forth in Code Section 42-1-12; ~~and~~
(16) Identify and investigate violations of Chapter 2 of Title 21 involving elections
which if established are sufficient to change or place in doubt the results of an election;
and

~~(16)~~(17) Attorneys employed by the Legal Division of the bureau may serve at the request of a district attorney, solicitor-general, or United States Attorney in the prosecution of any civil or criminal case within the jurisdiction of such district attorney, solicitor-general, or United States Attorney and, while providing such assistance to such district attorney, solicitor-general, or United States Attorney, such attorneys shall have the same authority and power as an attorney employed by such district attorney, solicitor-general, or United States Attorney."

SECTION 11.

Said title is further amended by adding a new Code section to read as follows:

"35-3-4.5.

(a) In any investigation of a violation of Chapter 2 of Title 21 involving elections, the director, assistant director, or deputy director for investigations shall be authorized to issue a subpoena, with the consent of the Attorney General, to compel the production of books, papers, documents, or other tangible items, including records and documents contained

within or generated by a computer or any other electronic device, unless such records are wholly owned by the federal government, and to undertake, at the discretion of the bureau, an audit of materials produced in response to such subpoena in a form deemed necessary by the bureau.

(b) Upon failure of a person without lawful excuse to obey a subpoena, the director, assistant director, or deputy director for investigations, through the prosecuting attorney, may apply to a superior court having jurisdiction for an order compelling compliance. Such person may object to the subpoena on the grounds that it fails to comply with this Code section or upon any constitutional or other legal right or privilege of such person. The court may issue an order modifying or setting aside such subpoena or directing compliance with the original subpoena. Failure to obey a subpoena issued under this Code section may be punished by the court as contempt of court."

SECTION 12.

Said title is further amended by revising subsection (b) of Code Section 35-3-32, relating to establishment of council, composition, and duties and responsibilities of the Georgia Crime Information Center Council generally, as follows:

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

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

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

~~(2)~~(3) Ensure that the information obtained pursuant to this article shall be restricted to the items specified in this article and ensure that the center is administered so as not to

accumulate any information or distribute any information that is not specifically approved in this article;

~~(3)~~(4) Ensure that adequate security safeguards are incorporated so that the data available through this system is used only by properly authorized persons and agencies;

~~(4)~~(5) Establish appropriate disciplinary measures to be taken by the center in the instance of violations of data reporting or dissemination of laws, rules, and regulations by criminal justice agencies or members thereof covered by this article; and

~~(5)~~(6) Establish other policies which provide for the efficient and effective use and operation of the center under the limitations imposed by the terms of this article."

SECTION 13.

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

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

SECTION 14.

Said title is further amended by revising subsection (g) of Code Section 35-3-36, relating to duties of state criminal justice agencies as to submission of fingerprints, photographs, and other identifying data to center and responsibility for accuracy, as follows:

"(g)(1) Criminal justice agencies within this state, all ~~At~~ persons in charge of law enforcement agencies, clerks of court ~~or the Georgia Superior Court Clerks' Cooperative~~

Authority as applicable, municipal judges when such judges do not have a clerk, magistrates, persons in charge of community supervision, juvenile probation, or Article 6 of Chapter 8 of Title 42 probation offices, and the State Board of Pardons and Paroles shall transmit to the center the information described in Code Section 35-3-33 within 30 days of the creation or receipt of such information, except as provided in subsection (d) of this Code section, on the basis of the forms and instructions to be provided by the center. Such forms and instructions shall not be inconsistent with the uniform standards promulgated pursuant to paragraph (5) of subsection (h) of Code Section 15-6-50.3 issued by The Council of Superior Court Clerks of Georgia.

(2) Compliance with the provisions in paragraph (1) of this subsection is mandatory, regardless of whether the center requests the information described in Code Section 35-3-33."

SECTION 15.

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

"35-6A-2.

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

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

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

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

SECTION 16.

Said title is further amended by repealing Code Section 35-6A-13, relating to the Criminal Case Data Exchange Board, membership, and operation.

SECTION 17.

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

SECTION 18.

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

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

SECTION 19.

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