

ADOPTED SENATE**SENATE SUBSTITUTE TO HB 1105**

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 17 of Official Code of Georgia Annotated, relating to criminal procedure, so
2 as to authorize immigration status verification prior to issuance of citation in lieu of arrest
3 for certain offenses; to provide for and revise definitions; to provide for acceptable
4 documentation for purposes of attempting to verify immigration status; to amend Chapter 1
5 of Title 35 of the Official Code of Georgia Annotated, relating to general provisions for law
6 enforcement officers and agencies, so as to require local agencies to seek memorandums of
7 understanding and agreement relative to assisting federal agencies with immigration laws;
8 to provide for penalties; to amend Code Section 36-80-23 of the Official Code of Georgia
9 Annotated, relating to prohibition on immigration sanctuary policies by local governmental
10 entities and certification of compliance, so as to provide for penalties relating to local
11 immigration sanctuary policies; to revise definitions; to amend Title 42 of the Official Code
12 of Georgia Annotated, relating to penal institutions, so as to provide for reporting of certain
13 information on inmates in custody of the Department of Corrections; to require custodial
14 authorities to honor immigration detainer notices; to provide for definitions; to provide for
15 standard procedures for intake of persons into a county jail or municipal detention facility;
16 to provide for required documentation; to provide for contact to certain federal agencies in
17 certain instances; to provide for penalties; to provide for quarterly reports regarding
18 foreign-born inmates in county jail or municipal detention facility; to provide for violation

19 and penalties; to amend Article 1 of Chapter 15 of Title 45 of the Official Code of Georgia
20 Annotated, relating to general provisions relative to the Attorney General, so as to provide
21 for prosecutorial and investigative authority in certain instances; to amend Chapter 36 of
22 Title 50 of the Official Code of Georgia Annotated, relating to verification of lawful presence
23 within United States, so as to revise required annual reporting requirements for agencies and
24 political subdivisions; to require the Department of Audits and Accounts to review and audit
25 such reports; to amend Chapter 3 of Title 35 of the Official Code of Georgia Annotated,
26 relating to DNA sampling, collection, and analysis, so as to require DNA collection of
27 certain convicted persons in custody subject to an immigration detainer notice; to provide for
28 related matters; to provide for a short title; to provide for legislative intent; to provide for
29 effective dates; to repeal conflicting laws; and for other purposes.

30 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

31 **SECTION 1.**

32 This Act shall be known and may be cited as the "Georgia Criminal Alien Track and Report
33 Act of 2024."

34 **SECTION 2.**

35 (1) The provisions of this Act relating immigration terminology and definitions shall be
36 construed to have the same meanings as provided under federal immigration law.

37 (2) The provisions of this Act shall be implemented in a manner consistent with federal laws
38 governing immigration and civil rights.

39 (3) The Georgia General Assembly implores the State Board of Pardons and Paroles to not
40 release any illegal alien from confinement prior to completion of his or her sentence unless
41 such board is assured that federal immigration authorities will deport such illegal alien upon
42 release.

43

SECTION 3.

44 Title 17 of Official Code of Georgia Annotated, relating to criminal procedure, is amended
45 in Code Section 17-4-23, relating to procedure for arrests by citation for motor vehicle
46 violations, issuance of warrants for arrest for failure of persons charged to appear in court,
47 and bond, by revising paragraph (2) of subsection (a) as follows:

48 "(2) A law enforcement officer may arrest a person 18 years of age or older accused of
49 any misdemeanor violation of Code Section 16-7-21, 16-8-14, 16-8-14.1, or 16-13-30 by
50 the issuance of a citation, provided that such offense is committed in his or her presence
51 or information constituting a basis for such arrest was received by the arresting officer
52 or an investigating officer from another law enforcement officer or other individual
53 observing or aware of such offense being committed. When an arrest is made for such
54 offense, prior to releasing the accused on citation, the arresting law enforcement officer
55 shall review the accused's criminal record as such is on file with the Federal Bureau of
56 Investigation and the Georgia Crime Information Center within the Georgia Bureau of
57 Investigation ~~and~~, ensure that the accused's fingerprints are obtained, and shall seek to
58 verify the immigration status of the accused pursuant to Code Section 17-5-100."

59

SECTION 4.

60 Said title is further amended in Code Section 17-5-100, relating to investigation of illegal
61 alien status, by revising paragraph (2) of subsection (a) and subsection (b) as follows:

62 "(2) 'Illegal alien' means a person who is verified by the federal government to be present
63 in the United States in violation of the federal ~~immigration law~~ Immigration and
64 Nationality Act."

65 "(b) Except as provided in subsection (f) of this Code section, during any investigation of
66 a criminal suspect by a peace officer, when such officer has probable cause to believe that
67 a suspect has committed a criminal violation, the officer shall ~~be authorized to seek to~~

68 verify such suspect's immigration status when the suspect is unable to provide one of the
69 following:

- 70 (1) A secure and verifiable document as defined in Code Section 50-36-2;
71 (2) A valid Georgia driver's license;
72 (3) A valid Georgia identification card issued by the Department of Driver Services;
73 (4) If the entity requires proof of legal presence in the United States before issuance as
74 evidenced by inclusion in the list compiled by the State Law Department pursuant to
75 paragraph (5) of subsection (b) of Code Section 13-10-91, any valid driver's license from
76 a state or district of the United States or any valid identification document issued by the
77 United States federal government;
78 (5) A document used in compliance with paragraph (2) of subsection (a) of Code Section
79 40-5-21; or
80 (6) A document set forth in subsection (d) of Code Section 42-4-14; or
81 (7) Other information as to the suspect's identity that is sufficient to allow the peace
82 officer to independently identify the suspect."

83

SECTION 5.

84 Chapter 1 of Title 35 of the Official Code of Georgia Annotated, relating to general
85 provisions for law enforcement officers and agencies, is amended by revising Code
86 Section 35-1-17, relating to local law enforcement agencies to enter into agreements with
87 federal agencies for the enforcement of immigration laws, as follows:

88 "35-1-17.

- 89 (a) **Legislative intent.** It is the intent of the General Assembly to ~~encourage~~ promote
90 compliance with state law related to deterring the presence of criminal illegal aliens and
91 require Georgia law enforcement officials to work in conjunction with federal immigration
92 authorities and to utilize all resources made available by the federal government to assist

93 state and local law enforcement officers in the enforcement of the ~~immigration~~ laws of this
94 state and of the United States.

95 **(b) Cooperation with federal authorities.**

96 (1) To the extent authorized by federal law, state and local government employees,
97 including law enforcement officers and prosecuting attorneys, shall ~~be authorized to send,~~
98 receive, and maintain information relating to the immigration status of any individual as
99 reasonably needed for public safety purposes. Except as provided by federal law, such
100 employees shall not be prohibited from receiving or maintaining information relating to
101 the immigration status of any individual or sending or exchanging such information with
102 other federal, state, or local governmental entities or employees for official public safety
103 purposes;

104 (2) State and local agencies shall promote compliance with state law related to deterring
105 the presence of criminal illegal aliens and shall be authorized to enter into memorandums
106 of understanding and ~~agreements~~ memorandums of agreement with the United States
107 Department of Justice, the Department of Homeland Security, or any other federal agency
108 for the purpose of enforcing federal immigration ~~and customs laws and the detention,~~
109 ~~removal, and investigation of illegal aliens and the immigration status of any person in~~
110 ~~this state. A peace officer acting within the scope of his or her authority under any such~~
111 ~~memorandum of understanding, agreement, or other authorization from the federal~~
112 ~~government shall have the power to arrest, with probable cause, any person suspected of~~
113 ~~being an illegal alien.~~ laws, including 287(g) of the Illegal Immigration Reform and
114 Immigrant Responsibility Act of 1996 or a similar federal program. A local agency shall
115 seek such memorandums of understanding annually when no current memorandum of
116 agreement is in effect;

117 (3) Except as provided by federal law, no state or local agency or department shall be
118 prohibited from utilizing available federal resources, including data bases, equipment,

119 grant funds, training, or participation in incentive programs for any public safety purpose
120 related to the enforcement of state and federal immigration laws; and

121 (4) When reasonably possible, applicable state agencies shall consider incentive
122 programs and grant funding for the purpose of assisting and encouraging state and local
123 agencies and departments to enter into agreements with federal entities and to utilize
124 federal resources consistent with the provisions of this Code section.

125 (c) **Authority to transport illegal aliens.** If a state or local law enforcement officer has
126 verification that a person is an illegal alien, then such officer shall be authorized to securely
127 transport such illegal alien to a federal facility in this state or to any other temporary point
128 of detention and to reasonably detain such illegal alien when authorized by a federal law
129 immigration detainer or federal arrest warrant. Nothing in this Code section shall be
130 construed to hinder or prevent a peace officer or law enforcement agency from arresting
131 or detaining any criminal suspect on other criminal charges.

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

135 (e) **Immunity.** A law enforcement officer or government official or employee, acting in
136 good faith to enforce immigration laws pursuant to a memorandum or an agreement with
137 federal authorities to collect or share immigration status information, or to carry out any
138 provision of this Code section, shall have immunity from damages or liability from such
139 actions.

140 (f) **Penalty.** A local governing body of a law enforcement agency that violates this Code
141 section shall be subject to the withholding of state funding or state administered federal
142 funding other than funds for the purposes of providing those services specified in
143 subsection (d) of Code Section 50-36-1. As a condition of funding to a local governing
144 body, the Department of Community Affairs, the Department of Transportation, or any
145 other state agency that provides funding to local governing bodies shall require certification

146 pursuant to Code Section 50-36-4 as proof of compliance with this Code section. No
147 county commission shall be subject to the withholding of state or federal funding pursuant
148 to this subsection when a sheriff or his or her employee violates this Code section."

149

SECTION 6.

150 Code Section 36-80-23 of the Official Code of Georgia Annotated, relating to prohibition on
151 immigration sanctuary policies by local governmental entities and certification of
152 compliance, is amended by revising paragraphs (2), (4), and (6) of subsection (a) and by
153 adding a new subsection to read as follows:

154 "(2) 'Immigration status' means the legality or illegality of an individual's presence in the
155 United States as determined by the federal law Immigration and Nationality Act."

156 "(4) 'Local governing body' means any political subdivision of this state, including any
157 county, consolidated government, municipality, authority, school district, commission,
158 board, or any other local public body corporate, governmental unit, sheriff's office, law
159 enforcement agency, or political subdivision."

160 "(6) 'Sanctuary policy' means any regulation, rule, policy, or practice adopted by a local
161 governing body which prohibits or restricts local officials or employees from complying
162 with an immigration detainer notice or communicating or cooperating with federal
163 officials or law enforcement officers with regard to reporting immigration status
164 information while such local official or employee is acting within the scope of his or her
165 official duties."

166 "(e)(1) It shall be unlawful for any local official or employee to knowingly and willfully
167 violate any provision of this Code section.

168 (2) A person convicted of a violation of this Code section shall be punished as for a
169 misdemeanor. A person convicted of a second or subsequent violation of this Code
170 section shall be punished as for a misdemeanor of a high and aggravated nature."

171

SECTION 7.

172 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended
173 by adding a new Code section to read as follows:

174 "42-1-11.4.

175 The commissioner shall, on the official public website used by the department, publish a
176 report of aggregate data on the immigration status, offenses, and home countries of inmates
177 who are confined under the authority of the department who are not citizens of the United
178 States and to whom the United States Immigration and Customs Enforcement Division of
179 the Department of Homeland Security has issued immigration detainer notices as such term
180 is defined in Code Section 42-4-16. Each report shall include the total number of inmates
181 who are not citizens of the United States; provided, however, that any inmates who are
182 citizens of both the United States and one or more other countries shall be designated as
183 such as a separate category. Such report shall be first published on October 1, 2024, and
184 every 90 days thereafter; provided, however, that if the ninetieth day falls on a state holiday
185 or Saturday or Sunday, then such report shall be published the next business day."

186

SECTION 8.

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

188 "42-1-11.5.

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

190 (1) 'Custodial authority' means the commissioner if a person is in physical custody at a
191 penal institution, the sheriff if a person is in physical custody at a county jail, the warden
192 if a person is in physical custody at county correctional institution, and the chief of police
193 if a person is in physical custody at a municipal detention facility.

194 (2) 'Immigration detainer notice' means documentation issued by the federal government
195 requesting that a custodial authority maintain temporary custody of an illegal alien as

196 such term is defined in Code Section 42-4-14, including a United States Department of
197 Homeland Security Form I-247 document or a similar successor form.

198 (b) Any custodial authority who has custody of a person who is subject to an immigration
199 detainer notice shall:

200 (1) Comply with, honor, and fulfill any request made in the immigration detainer notice;
201 and

202 (2) Inform the person identified in the immigration detainer notice that the person is
203 being held pursuant to such notice."

204 **SECTION 9.**

205 Said title is further amended by revising Code Section 42-4-14, relating to "illegal alien"
206 defined and determination of nationality and verification of lawful admission of person
207 confined in a jail facility, as follows:

208 "42-4-14.

209 (a) As used in this Code section, the term 'illegal alien' means a person who is verified by
210 the federal government to be present in the United States in violation of the federal
211 ~~immigration law~~ Immigration and Nationality Act.

212 (b) When any person is confined, for any period, in the jail of a county or a detention
213 facility of a municipality or a jail operated by a regional jail authority in compliance with
214 Article 36 of the Vienna Convention on Consular Relations, a reasonable effort shall be
215 made within 48 hours of such person's arrival at the jail or detention facility and pursuant
216 to subsection (c) or (d) of this Code section to determine the:

217 (1) The nationality of the person so confined; and

218 (2) That the person so confined is not an illegal alien.

219 ~~(c) When any foreign national is confined, for any period, in a county or municipal jail,~~
220 ~~a reasonable effort shall be made to verify that such foreign national has been lawfully~~
221 ~~admitted to the United States and if lawfully admitted, that such lawful status has not~~

222 ~~expired. If verification of lawful status cannot be made from documents in the possession~~
223 ~~of the foreign national, verification shall be made within 48 hours through a query to the~~
224 ~~Law Enforcement Support Center (LESC) of the United States Department of Homeland~~
225 ~~Security or other office or agency designated by the federal government. If the foreign~~
226 ~~national is determined to be an illegal alien, the keeper of the jail or other officer shall~~
227 ~~notify the United States Department of Homeland Security, or other office or agency~~
228 ~~designated for notification by the federal government.~~

229 (c) If a person to be admitted to a county jail or municipal detention facility claims to be
230 a consular officer or diplomat, the jailer shall attempt to obtain such person's identification
231 and, upon verification of such person's status as a consular officer or diplomat, provide for
232 his or her immediate release. If a person who claims to be a consular officer or diplomat
233 is unable to produce credentials which provide for verification of diplomatic status, a
234 person in a supervisory role at such jail or detention facility shall contact the United States
235 Department of State during normal business hours or the Command Center of the Office
236 of Security of the United States Department of State outside of normal business hours to
237 request verification of such person's status as a consular officer or of other diplomatic
238 status.

239 (d)(1) Unless a person admitted to a county jail or municipal detention facility has been
240 positively identified as a consular officer or diplomat, the county jail or municipal
241 detention facility receiving the person for confinement shall attempt to verify lawful
242 presence through presentation of a driver's license or identification card issued by this
243 state or any state from the list compiled by the State Law Department pursuant to
244 paragraph (5) of subsection (b) of Code Section 13-10-91 or one of the following:

245 (A) A Form I-94 Arrival/Departure Record issued by the United States Department of
246 Homeland Security;

247 (B) A permanent resident alien card Form 551;

248 (C) A valid Nexus card;

249 (D) A valid global entry identification card issued by the United States Department of
250 Homeland Security; or

251 (E) A valid passport indicating the person is a United States citizen, has been issued
252 a visa, or is a citizen of a country participating in a visa waiver program administered
253 by the United States Department of State.

254 (2) If a person fails to produce a document required by this subsection, or verification
255 of the authenticity of any such document is necessary, a person in a supervisory role at
256 the county jail or municipal detention facility shall contact the Law Enforcement Support
257 Center (LESC) of the United States Department of Homeland Security or the Atlanta
258 office of the United States Immigration and Customs Enforcement Division of the
259 Department of Homeland Security for a determination of the person's lawful presence.
260 If the LESC of the United States Department of Homeland Security responds to contact
261 pursuant to this paragraph with a request to detain an illegal alien, he or she shall not be
262 released within 48 hours of receipt of such request; provided, however, that if such person
263 was released prior to such request to detain, such fact shall be communicated to the LESC
264 of the United States Department of Homeland Security. Any response received pursuant
265 to this paragraph which indicates an illegal alien is confined in a county jail or municipal
266 detention facility shall be forwarded to the local United States Immigration and Customs
267 Enforcement Division of the Department of Homeland Security.

268 (3) No person shall be detained solely due to the inability to contact the LESC of the
269 United States Department of Homeland Security pursuant to the provisions of this
270 subsection.

271 (4) No person identified as an illegal alien by the LESC of the United States Department
272 of Homeland Security pursuant to this subsection shall be detained unless a request to
273 detain has been received pursuant to paragraph (2) of this subsection.

274 (e) A county jail or municipal detention facility shall provide an interpreter for any person
275 to be confined who is unable to effectively communicate or understand the requirements
276 of this Code section.

277 (f) Each county jail or municipal detention facility shall maintain a record of all
278 communications made pursuant to this Code section for any person taken into custody of
279 such jail or detention facility.

280 ~~(d)~~(g) Nothing in this Code section shall be construed to deny a person bond or from being
281 released from confinement when such person is otherwise eligible for release; provided,
282 however, that, upon verification that any person confined in a county jail or municipal
283 detention facility is an illegal alien, such person may be detained, arrested, and transported
284 as authorized by state and federal law.

285 ~~(e) The Georgia Sheriffs Association shall prepare and issue guidelines and procedures~~
286 ~~used to comply with the provisions of this Code section~~

287 (h)(1) It shall be unlawful for any jailer to knowingly and willfully violate any provision
288 of this Code section.

289 (2) A person convicted of a violation of this Code section shall be punished as for a
290 misdemeanor. A person convicted of a second or subsequent violation of this Code
291 section shall be punished as for a misdemeanor of a high and aggravated nature."

292 **SECTION 10.**

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

294 "42-4-16.

295 (a) At least quarterly, an individual in a supervisory role at a county jail or municipal
296 detention facility shall prepare and post on the public website of the local jurisdiction
297 where his or her jail or detention facility is located, a report for his or her jail or detention
298 facility which includes the following information for the most recent quarter:

- 299 (1) The total number of inmates booked into the county jail or municipal detention
300 facility;
- 301 (2) The total number of inquiries made to the Law Enforcement Support Center (LESC)
302 of the United States Department of Homeland Security or any other federal agency
303 inquiring relating to the immigration status or prior arrests of foreign-born inmates;
- 304 (3) The total number of responses received for requests made by the county jail or
305 municipal detention facility pursuant to paragraph (2) of this subsection;
- 306 (4) The total number of responses as provided for in paragraph (3) of this subsection that
307 indicated a foreign-born inmate of the county jail or municipal detention facility is an
308 illegal alien as such term is defined in Code Section 42-4-14;
- 309 (5) The number of immigration detainers issued by the United States Immigration and
310 Customs Enforcement Division of the Department of Homeland Security for prisoners
311 in the county jail or municipal detention facility; and
- 312 (6) A sworn affidavit signed by the individual in a supervisory role at the county jail or
313 municipal detention facility verifying compliance with Code Section 42-4-14 and all
314 other applicable law.
- 315 (b) Any person who knowingly and willfully makes a false, fictitious, or fraudulent
316 statement of representation in a report required by this Code section shall be guilty of a
317 violation of Code Section 16-10-20."

318

SECTION 11.

319 Article 1 of Chapter 15 of Title 45 of the Official Code of Georgia Annotated, relating to
320 general provisions relative to the Attorney General, is amended by revising Code Section
321 45-15-10, relating to Attorney General authorized to prosecute for violations while dealing
322 with or for state, assistance by state court prosecuting officers, and commencement of civil
323 forfeiture proceedings, as follows:

324 "45-15-10.

325 The Attorney General, as the head of the Department of Law and the chief legal officer of
326 the state, is authorized to prosecute;

327 (1) Prosecute in the criminal courts of this state any official, person, firm, or corporation
328 which violates any criminal statute while dealing with or for the state or any official,
329 employee, department, agency, board, bureau, commission, institution, or appointee
330 thereof; ~~and the Attorney General is authorized to call~~

331 (2) Call upon the district attorney or the prosecuting officer of any state court to assist
332 in or to conduct such prosecution; and, when so requested by the Attorney General, it
333 shall be the duty of any such district attorney or prosecuting officer of this state to assist
334 in or to conduct such prosecution for and on behalf of the Attorney General and the state.

335 ~~The Attorney General shall be authorized to commence;~~

336 (3) Commence civil forfeiture proceedings, as such term is defined in Code
337 Section 9-16-2, pursuant to Code Section 16-14-7 whenever he or she is authorized to
338 prosecute a case pursuant to this Code section;

339 (4) Investigate and prosecute violations of Code Sections 36-80-23, 42-4-14, and
340 42-4-16; and

341 (5) Investigate failure to comply with Code Sections 35-1-17, 42-1-11.4, 42-1-11.5, and
342 50-36-4."

343 **SECTION 12.**

344 Chapter 36 of Title 50 of the Official Code of Georgia Annotated, relating to verification of
345 lawful presence within United States, is amended by revising Code Section 50-36-4, relating
346 to definitions and requiring agencies to submit annual immigration compliance reports, as
347 follows:

348 "50-36-4.

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

- 350 (1) 'Agency or political subdivision' means any department, agency, authority,
351 commission, or governmental entity of this state or any subdivision of this state.
- 352 (2) 'Annual reporting period' means from December 1 of the preceding year through
353 November 30 of the year in which the report is due.
- 354 (3) 'Contractor' shall have the same meaning as set forth in Code Section 13-10-90.
- 355 (4) 'Department' means the Department of Audits and Accounts.
- 356 (5) 'Physical performance of services' shall have the same meaning as set forth in Code
357 Section 13-10-90.
- 358 (6) 'Public employer' shall have the same meaning as set forth in Code Section 13-10-90.
- 359 (b) Each agency, ~~sheriff's office, law enforcement agency,~~ or political subdivision subject
360 to any of the requirements provided in Code Sections 13-10-91, 35-1-17, 36-60-6,
361 36-80-23, 42-1-11.4, 42-1-11.5, 42-4-14, 42-4-16, and 50-36-1 shall submit an annual
362 immigration compliance report to the department by December 31 that includes the
363 information required under subsection (d) of this Code section for the annual reporting
364 period. If an agency or political subdivision is exempt from any, but not all, of the
365 provisions of subsection (d) of this Code section, it shall still be required to submit the
366 annual report but shall indicate in the report which requirements from which it is exempt.
- 367 (c) The department shall create an immigration compliance reporting system and shall
368 provide technical support for the submission of such reports. The department shall further
369 provide annual notification of such reports with submission instructions to all agencies and
370 political subdivisions subject to such requirements. The department shall be authorized to
371 implement policy as is needed to carry out the requirements of this subsection.
- 372 (d) The immigration compliance report provided for in subsection (b) of this Code section
373 shall contain the following:
- 374 (1) The agency or political subdivision's federal work authorization program verification
375 user number and date of authorization;

- 376 (2) The legal name, address, and federal work authorization program user number of
377 every contractor that has entered into a contract for the physical performance of services
378 with a public employer as required under Code Section 13-10-91 during the annual
379 reporting period;
- 380 (3) The date of the contract for the physical performance of services between the
381 contractor and public employer as required under Code Section 13-10-91;
- 382 (4) A listing of each license or certificate issued by a county or municipal corporation
383 to private employers that are required to utilize the federal work authorization program
384 under the provisions of Code Section 36-60-6 during the annual reporting period,
385 including the name of the person and business issued a license and his or her federally
386 assigned employment eligibility verification system user number as provided in the
387 private employer affidavit submitted at the time of application;
- 388 (5)(A) A listing of each public benefit administered by the agency or political
389 subdivision and a listing of each public benefit for which SAVE program authorization
390 for verification has not been received.
- 391 (B) As used in this paragraph, the terms 'public benefit' and 'SAVE program' shall have
392 the same meanings as set forth in Code Section 50-36-1; ~~and~~
- 393 (6) The agency or political subdivision's certificate of compliance with Code
394 Section 36-80-23; and
- 395 (7) Where applicable, the agency, sheriff's office, law enforcement agency, or political
396 subdivision's certificate of compliance with Code Sections 35-1-17, 42-4-11.4, 42-4-11.5,
397 42-4-14, and 42-4-16.
- 398 (e) The department shall annually conduct random reviews of no less than 5 percent of the
399 immigration compliance reports submitted pursuant to this Code section and shall make the
400 determination of compliance pursuant to this Code section. In the event that the
401 immigration compliance report submitted by an agency or political subdivision is found to
402 be deficient by the department, so long as a new immigration compliance report is

403 submitted with the prior deficiencies corrected and fully complies with this Code section,
404 such agency or political subdivision shall be deemed to have satisfied the requirements of
405 this Code section.

406 (f) Any action taken by an agency or a political subdivision for the purpose of complying
407 with the requirements of this Code section shall not subject such agency or political
408 subdivision to any civil liability arising from such action.

409 ~~(g) The department shall not find an agency or a political subdivision to be in violation of~~
410 ~~this Code."~~

411 **SECTION 13.**

412 Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to DNA sampling,
413 collection, and analysis, is amended by revising Code Section 35-3-160, relating to DNA
414 analysis in felony convictions and certain felony charges and performance of tests, as
415 follows:

416 "35-3-160.

417 (a) As used in this article, the term:

418 (1) 'Department' means the Department of Corrections.

419 (2) 'Detention facility' means a penal institution under the jurisdiction of the department,
420 including penal institutions operated by a private company on behalf of the department,
421 inmate work camps, inmate boot camps, probation detention centers, parole revocation
422 centers, and county correctional facilities.

423 (3) 'Division' means the Division of Forensic Sciences of the Georgia Bureau of
424 Investigation.

425 (b)(1) A sample of deoxyribonucleic acid (DNA) shall be collected by oral swab or other
426 noninvasive procedure from any individual:

427 (A) Who has been convicted of a felony and is currently incarcerated in a detention
428 facility, serving a probation sentence, or serving under the jurisdiction of the State
429 Board of Pardons and Paroles for such felony; or

430 (B) Who has been charged with a felony, and sentence for such offense has been
431 imposed pursuant to Article 3 of Chapter 8 of Title 42 or pursuant to subsection (a) or
432 (c) of Code Section 16-13-2; or

433 (C) Who has been convicted of a felony and is subject to an immigration detainer
434 notice as such term is defined in Code Section 42-4-16.

435 (2) Unless a DNA sample has already been collected by the department or another
436 agency or entity, each DNA sample required by paragraph (1) of this subsection shall be
437 collected by the detention facility which is detaining or the entity which is supervising
438 such individual, and the sample shall be forwarded to the division.

439 (3) Paragraph (1) of this subsection shall not apply to any individual for a conviction for
440 a misdemeanor, to any individual who is charged with a misdemeanor and the sentence
441 for such misdemeanor is imposed pursuant to Article 3 of Chapter 8 of Title 42 regarding
442 first offenders, or because he or she has been charged with a misdemeanor.

443 (c) DNA analysis shall be performed by the division. The division shall be authorized to
444 contract with individuals or organizations for services to perform such analysis. The
445 identifying characteristics of the profile resulting from the DNA analysis shall be stored
446 and maintained by the bureau in a DNA data bank in accordance with Code
447 Sections 35-3-162 and 35-3-163 and shall be made available only as provided in Code
448 Section 35-3-163."

449 **SECTION 14.**

450 (a) Except as otherwise provided for in subsection (b) of this Section, this Act shall become
451 effective upon approval by the Governor or upon becoming law without such approval.

452 (b) Section 10 of this Act shall become effective on December 31, 2024.

453

SECTION 15.

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