

House Bill 161

By: Representatives Crowe of the 118<sup>th</sup>, Reeves of the 99<sup>th</sup>, New of the 40<sup>th</sup>, Camp of the 135<sup>th</sup>, and Smith of the 18<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 1 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated,  
2 relating to general provisions relative to the Georgia Bureau of Investigation, to provide for  
3 authority to issue subpoenas of electronic communication records for purposes of  
4 investigating certain crimes relating to cyber enabled threats to life and property; to provide  
5 for punishment for failure to obey certain subpoenas; to prohibit disclosure of the issuance  
6 of certain subpoenas during the pendency of an investigation; to amend Title 16 and Code  
7 Sections 20-3-10, 36-80-23, and 38-3-40 of the Official Code of Georgia Annotated, relating  
8 to crimes and offenses, sanctuary policies prohibited and penalty for violation, prohibition  
9 on immigration sanctuary policies by local governmental entities, certification of compliance,  
10 and punishment, and definitions relative to the Board of Homeland Security, respectively,  
11 so as to repeal the definition of 'domestic terrorism'; to establish the crime of domestic  
12 terrorism; to make conforming changes; to provide for related matters; to repeal conflicting  
13 laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**PART I**  
**SECTION 1-1.**

17 Article 1 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to  
18 general provisions relative to the Georgia Bureau of Investigation, is amended by revising  
19 Code Section 35-3-4.1, relating to subpoena for production of electronic communication  
20 service records for computer or electronic device used in furtherance of certain offenses  
21 against minors, as follows:

22 "35-3-4.1.

23 ~~(a)(1) In any investigation of a violation of Code Section 16-12-100, 16-12-100.1,~~  
24 ~~or 16-12-100.2 involving the use of a computer or an electronic device in furtherance of~~  
25 ~~an act related to a minor, or any investigation of a violation of Article 8 of Chapter 9 of~~  
26 ~~Title 16, the~~ The director, assistant director of the bureau, or deputy director for  
27 investigations of the bureau shall be authorized to issue a subpoena, with the consent of  
28 the Attorney General, to compel the production of electronic communication service or  
29 remote communication computing service records or other information pertaining to a  
30 subscriber or customer of such service, exclusive of contents of communications, in any  
31 investigation of a violation of:

32 (A) Code Section 16-12-100, 16-12-100.1, or 16-12-100.2 involving the use of a  
33 computer or an electronic device in furtherance of an act related to a minor;

34 (B) Article 8 of Chapter 9 of Title 16; or

35 (C) Code Section 16-9-93, 16-10-28, 16-11-37, 16-11-39.1, or 16-11-221.

36 (2) A provider of electronic communication service or remote computing service shall  
37 disclose to the bureau the following as relative to the subscriber or customer of such  
38 service:

39 (A) Name;

40 (B) Address;

41 (C) Local and long distance telephone connection records, or records of session times  
42 and durations;

43 (D) Length of service, including the start date, and types of service utilized;

44 (E) Telephone or instrument number or other subscriber number or identity, including  
45 any temporarily assigned network address; and

46 (F) Means and source of payment for such service, including any credit card or bank  
47 account number ~~of a subscriber to or customer of such service.~~

48 (3) A provider of electronic communication service or remote computing service shall  
49 not provide notification of the subpoena issued pursuant to paragraph (1) of this  
50 subsection to the subscriber or customer of such service.

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

60 (c) The Attorney General may request that a natural person who refuses to produce  
61 relevant matter included in a subpoena issued pursuant to this Code section on the ground  
62 that the production of such records may incriminate such person be ordered by the court  
63 to provide such records. With the exception of a prosecution for perjury, a natural person  
64 who complies with the court order to provide such records asserting a privilege against  
65 self-incrimination to which he or she is entitled by law shall not be prosecuted or subjected  
66 to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning  
67 which he or she may testify or produce evidence, documentary or otherwise.

68 (d)(1) The issuance of a subpoena pursuant to this Code section shall not be made public  
 69 during any pending investigation or prosecution of criminal or unlawful activity beyond  
 70 the extent necessary for the issuance and compliance of the subpoena.

71 (2) Information obtained pursuant to a subpoena enforced by this Code section shall not  
 72 be made public or, except as authorized in paragraph ~~(2)~~(3) of this subsection, disclosed  
 73 by the director of the bureau, assistant director, deputy director for investigations of the  
 74 bureau, or the director's employees beyond the extent necessary for the enforcement of  
 75 this Code section.

76 ~~(2)~~(3) The director, assistant director of the bureau, deputy director for investigations of  
 77 the bureau, or the director's employees shall be authorized to provide to any federal, state,  
 78 or local law enforcement agency any information acquired under this Code section in  
 79 furtherance of a criminal investigation ~~in violation of Code Section 16-12-100,~~  
 80 ~~16-12-100.1, or 16-12-100.2.~~

81 (e) As used in this Code section, the terms 'electronic communication service' and 'remote  
 82 computing service' shall have the same meaning as set forth in Code Section 16-9-92."

## 83 PART II

### 84 SECTION 2-1.

85 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 86 amended in Code Section 16-11-220, relating to definitions relative to domestic terrorism,  
 87 by revising paragraph (2) as follows:

88 "(2) '~~Domestic terrorism~~' means any felony violation of, or attempt to commit a felony  
 89 ~~violation of the laws of this state which, as part of a single unlawful act or a series of~~  
 90 ~~unlawful acts which are interrelated by distinguishing characteristics, is intended to cause~~  
 91 ~~serious bodily harm, kill any individual or group of individuals, or disable or destroy~~  
 92 ~~critical infrastructure, a state or government facility, or a public transportation system~~  
 93 ~~when such disability or destruction results in major economic loss, and is intended to:~~

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- 94 ~~(A) Intimidate the civilian population of this state or any of its political subdivisions;~~  
 95 ~~(B) Alter, change, or coerce the policy of the government of this state or any of its~~  
 96 ~~political subdivisions by intimidation or coercion; or~~  
 97 ~~(C) Affect the conduct of the government of this state or any of its political~~  
 98 ~~subdivisions by use of destructive devices, assassination, or kidnapping~~ Reserved."

99 **SECTION 2-2.**

100 Said title is further amended by revising Code Section 16-11-221, relating to penalties for  
 101 domestic terrorism, as follows:

102 "16-11-221.

103 (a) A person commits the crime of domestic terrorism when he or she:

104 (1) Commits or attempts to commit a felony violation of the laws of this state as a single  
 105 unlawful act or part of a series of unlawful acts which are interrelated by distinguishing  
 106 characteristics;

107 (2) Intends to:

108 (A) Cause serious bodily harm;

109 (B) Kill any individual or group of individuals; or

110 (C) Disable or destroy critical infrastructure, a state or government facility, or a public  
 111 transportation system when such disability or destruction results in major economic  
 112 loss; and

113 (3) Intentionally attempts:

114 (A) Intimidate the civilian population of this state or any of its political subdivisions;

115 (B) Alter, change, or coerce the policy of the government of this state or any of its  
 116 political subdivisions by intimidation or coercion; or

117 (C) Affect the conduct of the government of this state or any of its political  
 118 subdivisions by use of destructive devices, assassination, or kidnapping.

119 (b) Any person who commits domestic terrorism shall be guilty of a felony and upon  
 120 conviction thereof shall be punished as follows:

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- 121 (1) If death results to any individual, by death, by imprisonment for life without parole,  
 122 or by imprisonment for life;
- 123 (2) If kidnapping occurs, by imprisonment for not less than 15 nor more than 35 years,  
 124 or by imprisonment for life;
- 125 (3) If serious bodily harm occurs, by imprisonment for not less than 15 nor more than 35  
 126 years; or
- 127 (4) If critical infrastructure, a state or government facility, or a public transportation  
 128 system is disabled or destroyed, by imprisonment for not less than five nor more than 35  
 129 years.
- 130 ~~(b)~~(c) No sentence imposed under this Code section shall be suspended, stayed, probated,  
 131 deferred, or withheld by the sentencing court; provided, however, that in the court's  
 132 discretion, the court may suspend, stay, probate, defer, or withhold part of such sentence  
 133 when the prosecuting attorney and the defendant have agreed to such sentence."

134 **SECTION 2-3.**

135 Said title is further amended in Code Section 16-14-3, relating to definitions relative to  
 136 racketeer influenced and corrupt organizations, by revising subparagraph (B) of paragraph  
 137 (4) as follows:

138 "(B) Engaging in any one or more acts of domestic terrorism as described in paragraph  
 139 ~~(2)~~ of Code Section ~~16-11-220~~ 16-11-221 or any criminal attempt, criminal solicitation,  
 140 or criminal conspiracy related thereto."

141 **SECTION 2-4.**

142 Code Section 20-3-10 of the Official Code of Georgia Annotated, relating to sanctuary  
 143 policies prohibited and penalty for violation, by revising paragraph (4) of subsection (a) as  
 144 follows:

145 "(4) 'Status information' means any information, not including any information required  
 146 by law to be kept confidential but otherwise including, but not limited to, any statement,

147 document, computer generated data, recording, or photograph, which is relevant to the  
 148 identity or location of an individual who is reasonably believed to be violating state or  
 149 federal laws, illegally residing within the United States, or who is reasonably believed to  
 150 be involved in domestic terrorism ~~as that term is defined in Code Section 16-11-220 in~~  
 151 violation of Code Section 16-11-221 or a terroristic act as that term is defined by Code  
 152 Section 35-3-62."

153 **SECTION 2-5.**

154 Code Section 36-80-23 of the Official Code of Georgia Annotated, relating to prohibition on  
 155 immigration sanctuary policies by local governmental entities, certification of compliance,  
 156 and punishment, by revising paragraph (3) of subsection (a) as follows:

157 "(3) 'Immigration status information' means any information, not including any  
 158 information required by law to be kept confidential but otherwise including, but not  
 159 limited to, any statement, document, computer generated data, recording, or photograph,  
 160 which is relevant to immigration status or the identity or location of an individual who  
 161 is reasonably believed to be illegally residing within the United States or who is  
 162 reasonably believed to be involved in domestic terrorism ~~as that term is defined in Code~~  
 163 Section 16-11-220 in violation of Code Section 16-11-221 or a terroristic act as that term  
 164 is defined by Code Section 35-3-62."

165 **SECTION 2-6.**

166 Code Section 38-3-40 of the Official Code of Georgia Annotated, relating to definitions  
 167 relative to the Board of Homeland Security, by revising paragraph (4) as follows:

168 "(4) 'Domestic terrorism' ~~shall have the same meaning as set forth in Code Section~~  
 169 16-11-220 means an offense of Code Section 16-11-221."

170

**PART III**

171

**SECTION 3-1.**

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