

Senate Bill 21

By: Senators Tillery of the 19th, Brass of the 6th, Walker III of the 20th, Harbin of the 16th, Burns of the 23rd and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 80 of Title 36 of the Official Code of Georgia Annotated, relating to
2 general provisions applicable to counties, municipal corporations, and other governmental
3 entities, so as to waive sovereign and governmental immunities for local governments and
4 their officials and employees for a violation of the prohibition on immigration sanctuary
5 policies; to amend Code Section 42-1-11.5 of the Official Code of Georgia Annotated,
6 relating to compliance with immigration detainer notices, so as to provide for immunity
7 waivers; to provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 80 of Title 36 of the Official Code of Georgia Annotated, relating to general
11 provisions applicable to counties, municipal corporations, and other governmental entities,
12 is amended by adding a new subsection to Code Section 36-80-23, relating to prohibition on
13 immigration sanctuary policies by local governmental entities, and certification of
14 compliance, to read as follows:

15 "(f) In the event that a local governing body acts in violation of this Code section, the
16 sovereign immunity of such local governing body and the governmental immunity of all

17 local officials and employees of such local governing body is waived in all matters arising
18 from or resulting in the violation of this Code section."

19 **SECTION 2.**

20 Code Section 42-1-11.5 of the Official Code of Georgia Annotated, relating to compliance
21 with immigration detainer notices, is amended by revising said Code section as follows:

22 "42-1-11.5.

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

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

28 (2) 'Immigration detainer notice' means documentation issued by the federal government
29 requesting that a custodial authority maintain temporary custody of an illegal alien as
30 such term is defined in Code Section 42-4-14, including a United States Department of
31 Homeland Security Form I-247 document or a similar successor form.

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

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

36 (2) Inform the person identified in the immigration detainer notice that the person is
37 being held pursuant to such notice.

38 (c) In the event that a custodial authority acts in violation of this Code section, the
39 sovereign and other governmental immunities of such custodial authority are waived in all
40 matters arising from or resulting in the violation of this Code section."

41

SECTION 3.

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