

House Bill 1053

By: Representatives Lim of the 98<sup>th</sup>, Romman of the 97<sup>th</sup>, Sanchez of the 42<sup>nd</sup>, Wilkerson of the 38<sup>th</sup>, Lupton of the 83<sup>rd</sup>, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 35 of the Official Code of Georgia Annotated, relating to law enforcement  
2 officers and agencies, so as to repeal provisions relating to local law enforcement  
3 involvement with immigration and cooperation with federal authorities; to provide for  
4 immigration certifications for victims of certain crimes; to provide a process for obtaining  
5 such certifications; to provide for deadlines; to provide for notice of decisions about requests  
6 for immigration certifications; to provide for appeal; to provide for information sharing with  
7 federal immigration officers; to provide for immunity; to provide for annual reports; to  
8 provide for training; to provide for enforcement; to provide for civil remedies; to provide for  
9 attorney fees and costs; to provide for investigations by the Attorney General; to provide for  
10 and revise definitions; to amend Title 17 of the Official Code of Georgia Annotated, relating  
11 to criminal procedure, so as to repeal provisions relating to the verification of immigration  
12 status; to amend Title 36 of the Official Code of Georgia Annotated, relating to local  
13 government, so as to repeal provisions relating to immigration sanctuary policies; to amend  
14 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, so as to  
15 repeal provisions relating to reports regarding foreign-born inmates in custody, compliance  
16 with immigration detainer notices, and reporting requirements; to remove verification of  
17 immigration status; to remove the requirement for an interpreter and records of  
18 communications; to remove penalties; to amend Title 45 of the Official Code of Georgia

H. B. 1053

- 1 -

19 Annotated, relating to public officers and employees, so as to revise the authority of the  
20 Attorney General regarding certain investigations and prosecutions; to amend Title 50 of the  
21 Official Code of Georgia Annotated, relating to state government, so as to make confirming  
22 changes; to revise requirements for compliance; to provide for related matters; to repeal  
23 conflicting laws; and for other purposes.

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

25 **PART I**  
26 **SECTION 1-1.**

27 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and  
28 agencies, is amended by repealing Code Section 35-1-17, relating to state and local law  
29 enforcement actions relating to immigration laws, authority, immunity, and penalty, and  
30 enacting a new Code Section 35-1-17 to read as follows:

31 "35-1-17.

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

33 (1) 'Certification form' means a law enforcement certification form or statement required  
34 by federal immigration law certifying that a person is a victim of qualifying criminal  
35 activity, including, but not limited to, the information required by Section 1184(p) of  
36 Title 8 of the United States Code, including current United States Citizenship and  
37 Immigration Services Form I-918, Supplement B, or any successor form, for purposes of  
38 obtaining a U visa or the information required by Section 1184(o) of Title 8 of the United  
39 States Code, including current United States Citizenship and Immigration Services Form  
40 I-914, Supplement B, or any successor form, for purposes of obtaining a T visa.

41 (2) 'Certifying agency' means a state or local law enforcement agency, prosecutor, or  
42 other public entity that has responsibility for the investigation or prosecution of

43 qualifying criminal activity, including any state agency or department that conducts  
44 criminal investigations.

45 (3) 'Certifying official' means a person designated under subsection (b) of this Code  
46 section.

47 (4) 'Qualifying criminal activity' means any activity, regardless of the stage of  
48 investigation or prosecution, that is designated in Section 1101(a)(15)(U)(iii) of Title 8  
49 of the United States Code, and in any implementing federal regulations, supplementary  
50 information, guidance, and instructions applicable to such federal provision.

51 (5) 'Victim of qualifying criminal activity' means a person described in  
52 Section 1101(a)(15)(U)(i)(I) of Title 8 of the United States Code or in the definition of  
53 'victim of a severe form of trafficking' or 'victim of trafficking' in Section 7102 of Title 22  
54 of the United States Code, and in any implementing federal regulations, supplementary  
55 information, guidance, and instructions applicable to such federal provision.

56 (b) The head of each certifying agency shall designate an official or officials in  
57 supervisory roles either within such agency or, by agreement, from another agency with  
58 concurrent jurisdiction over the same geographic area or subject matter to be a certifying  
59 official. Such certifying officials shall not be members of a collective bargaining unit  
60 represented by a labor organization unless the official is an attorney or is employed in an  
61 agency in which all supervisory officials are members of a collective bargaining unit. Such  
62 certifying officials shall:

63 (1) Respond to requests for completion of certification forms received by the certifying  
64 agency as required by this Code section; and

65 (2) Make information regarding such agency's procedures for certification requests  
66 publicly available for victims of qualifying criminal activity and their representatives.

67 (c) Any person seeking completion of a certification form shall submit a request for  
68 completion of such form to the certifying official for any certifying agency that  
69 investigated or prosecuted the criminal activity upon which the request is based.

70 (d) A request for completion of a certification form under this Code section may be  
71 submitted by a representative of the person seeking the certification form, including, but  
72 not limited to, an attorney, a United States Department of Justice accredited representative,  
73 or a domestic violence or sexual assault services provider.

74 (e) Upon receiving a request for completion of a certification form, a certifying official  
75 shall complete such form for any alleged victim of qualifying criminal activity. In  
76 completing the certification form, there is a rebuttable presumption that such victim is  
77 helpful, has been helpful, or is likely to be helpful to the investigation or prosecution of that  
78 qualifying criminal activity if such victim has not previously refused or failed to provide  
79 information and assistance reasonably requested by the certifying agency. The certifying  
80 official shall fully complete and sign the certification form and, regarding victim  
81 helpfulness, include specific details about the nature of the crime investigated or prosecuted  
82 and a detailed description of such victim's helpfulness or likely helpfulness to the  
83 investigation or prosecution of the qualifying criminal activity.

84 (f)(1) The certifying official shall complete the certification form and provide it to the  
85 person requesting completion of such form within 90 business days of receiving the  
86 request; provided, however, that:

87 (A) If the alleged victim of qualifying criminal activity is in federal immigration  
88 removal proceedings or detained, the certifying official shall complete and provide the  
89 certification form to such person no later than 21 business days after the request is  
90 received by the certifying agency;

91 (B) If the children, parents, or siblings of the alleged victim of qualifying criminal  
92 activity would become ineligible for benefits under Sections 1184(p) and 1184(o) of  
93 Title 8 of the United States Code by virtue of such victim's children having reached the  
94 age of 21 years, such victim having reached the age of 21 years, or such victim's sibling  
95 having reached the age of 18 years within 90 business days from the date that the  
96 certifying official receives the certification request, the certifying official shall complete

97 and provide the certification form to such person no later than 21 business days after  
98 the request is received by the certifying agency; or  
99 (C) If the children, parents, or siblings under paragraph (2) of this subsection would  
100 become ineligible for benefits under Sections 1184(p) and 1184(o) of Title 8 of the  
101 United States Code within 21 business days of receipt of the certification request, the  
102 certifying official shall complete and provide a certification form to such person within  
103 five business days.

104 (2) A certifying official may extend the time period by which he or she must complete  
105 and provide the certification form as required under this subsection only upon written  
106 agreement with the person making the request or such person's representative. Requests  
107 for expedited completion of a certification form under paragraph (1) of this subsection  
108 shall be affirmatively raised in writing to the certifying agency by the person making the  
109 request or such person's representative and shall establish that the alleged victim of  
110 qualifying criminal activity for whom the certification form is requested is eligible for  
111 expedited review.

112 (g) A person who receives a certification form under this Code section may request the  
113 certifying agency to reissue the form as needed. When a request to reissue is made, the  
114 certifying official who issued the initial certification form shall complete and reissue such  
115 form within 90 business days of receiving the request. If the person seeking a reissued  
116 certification form has a deadline to respond to a request for evidence from United States  
117 Citizenship and Immigration Services, the certifying official shall complete and reissue the  
118 form no later than 21 business days after the request is received by the certifying official.  
119 Requests for expedited reissuance shall be affirmatively raised in writing by the person  
120 making the request or such person's representative and shall establish that the person is  
121 eligible for expedited review. A certifying official may extend the deadline by which he  
122 or she will complete and reissue the certification form only upon written agreement with  
123 the person making the request or such person's representative.

124 (h)(1) Notwithstanding any other provision of this Code section, a certifying official's  
125 completion of a certification form shall not be considered conclusive evidence that an  
126 applicant for a U or T visa has met all eligibility requirements for that visa and  
127 completion of a certification form by a certifying official shall not be construed to  
128 guarantee that the applicant will receive federal immigration relief. It is the exclusive  
129 responsibility of federal immigration officials to determine whether a person is eligible  
130 for a U or T visa. Completion of a certification form by a certifying official merely  
131 verifies factual information relevant to the federal immigration benefit sought, including,  
132 but not limited to, information relevant for federal immigration officials to determine  
133 eligibility for a U or T visa. By completing a certification form, the certifying official  
134 attests that the information is true and correct to the best of such official's knowledge.  
135 (2) No provision in this Code section shall limit the manner in which a certifying agency  
136 or certifying official describes whether the person requesting a certification form has  
137 cooperated and been helpful to the certifying agency nor shall it limit a certifying agency  
138 or certifying official from providing any additional information such agency or official  
139 determines is relevant to a federal immigration officer's adjudication of a U or T visa  
140 application. If, after completion of a certification form, the certifying agency or  
141 certifying official determines that the person requesting the form was not a victim of  
142 qualifying criminal activity or such person unreasonably refuses to assist in the  
143 investigation or prosecution of the qualifying criminal activity of which he or she is a  
144 victim, the certifying agency or certifying official shall be authorized to notify United  
145 States Citizenship and Immigration Services in writing.  
146 (i) A certifying agency or certifying official receiving requests for completion of  
147 certification forms shall not disclose the immigration status of any person requesting  
148 completion of such forms; provided, however, that immigration status shall be disclosed  
149 if required by federal or state law or a court order, or if authorized by the person requesting  
150 the certification form.

151 (j) If a certifying official determines that the person is not a victim of qualifying criminal  
152 activity, the certifying official shall provide written notice to such person or such person's  
153 representative explaining why the available evidence does not support such a finding. The  
154 certifying official shall submit the notice to the address provided in the initial request and  
155 shall provide contact information so that the person or such person's representative can  
156 appeal the decision. The certifying agency shall review and respond to any such appeals  
157 within 30 business days.

158 (k) Notwithstanding subsection (j) of this Code section, no such person or person's  
159 representative is required to file an appeal or otherwise exhaust any administrative  
160 remedies with a certifying agency under subsection (j) of this Code section before filing  
161 an action for mandamus or other equitable relief in a court of competent jurisdiction to  
162 enforce this Code section.

163 (l) A certifying agency or certifying official acting in good faith compliance with this Code  
164 section shall have immunity from civil or criminal liability that might otherwise occur as  
165 a result of so acting or failing to act, with the exception of willful or wanton misconduct.

166 (m) No certifying agency or certifying official shall be liable for attorney fees or costs  
167 associated with the filing of an action seeking enforcement of this Code section unless the  
168 party seeking enforcement demonstrates willful or wanton misconduct by such agency or  
169 official.

170 (n)(1) To ensure compliance with this Code section, certifying agencies shall submit a  
171 report annually to the Attorney General that includes the following:

172 (A) The date of receipt of each request for completion of a certification form under this  
173 Code section; and

174 (B) The date on which the certifying agency provided the completed certification form  
175 to the person seeking completion of the form or provided written notice explaining why  
176 the available evidence did not support a finding that the person was a victim of  
177 qualifying criminal activity.

178 (2) If a certifying agency receives no requests for completion of a certification form  
179 during a reporting period, the agency shall certify and report to the Attorney General that  
180 no such requests were received.

181 (3) Certifying agencies shall not include names or other personal identifying information  
182 in any reports submitted under this Code section.

183 (o) Each certifying agency shall arrange for annual training for certifying officials  
184 regarding the requirements of this Code section.

185 (p)(1) The Attorney General shall have authority to conduct investigations into violations  
186 of this Code section and to:

187 (A) Require a certifying agency or certifying official to file a written statement or  
188 report under oath that contains information requested by the Attorney General;

189 (B) Examine under oath a certifying official or any other person alleged to have  
190 knowledge about an alleged violation of this Code section; and

191 (C) Issue subpoenas, obtain records, conduct hearings, or take any other actions in aid  
192 of any investigation under this Code section.

193 (2) If a certifying agency, certifying official, or any other person alleged to have  
194 knowledge about an alleged violation of this Code section fails to comply, in whole or  
195 in part, with a subpoena or other investigative request issued pursuant to this paragraph,  
196 the Attorney General is authorized to seek compliance through a court of competent  
197 jurisdiction.

198 (3) The Attorney General is authorized to file an action for declaratory, injunctive, or any  
199 other equitable relief in a court of competent jurisdiction against any certifying agency  
200 or certifying official that violates any provision of this Code section.

201 (4) The remedies under this subsection are in addition to any other available remedies.

202 ~~(a) **Legislative intent.** It is the intent of the General Assembly to promote compliance~~  
203 ~~with state law related to deterring the presence of criminal illegal aliens and require~~  
204 ~~Georgia law enforcement officials to work in conjunction with federal immigration~~

205 ~~authorities and to utilize all resources made available by the federal government to assist~~  
206 ~~state and local law enforcement officers in the enforcement of the laws of this state and of~~  
207 ~~the United States.~~

208 ~~(b) **Cooperation with federal authorities.**~~

209 ~~(1) To the extent authorized by federal law, state and local government employees,~~  
210 ~~including law enforcement officers and prosecuting attorneys, shall send, receive, and~~  
211 ~~maintain information relating to the immigration status of any individual as reasonably~~  
212 ~~needed for public safety purposes. Except as provided by federal law, such employees~~  
213 ~~shall not be prohibited from receiving or maintaining information relating to the~~  
214 ~~immigration status of any individual or sending or exchanging such information with~~  
215 ~~other federal, state, or local governmental entities or employees for official public safety~~  
216 ~~purposes;~~

217 ~~(2) State and local agencies shall promote compliance with state law related to deterring~~  
218 ~~the presence of criminal illegal aliens and shall be authorized to enter into memorandums~~  
219 ~~of understanding and memorandums of agreement with the United States Department of~~  
220 ~~Justice, the Department of Homeland Security, or any other federal agency for the~~  
221 ~~purpose of enforcing federal immigration laws, including 287(g) of the Illegal~~  
222 ~~Immigration Reform and Immigrant Responsibility Act of 1996 or a similar federal~~  
223 ~~program. A local agency shall seek such memorandums of understanding annually when~~  
224 ~~no current memorandum of agreement is in effect;~~

225 ~~(3) Except as provided by federal law, no state or local agency or department shall be~~  
226 ~~prohibited from utilizing available federal resources, including data bases, equipment,~~  
227 ~~grant funds, training, or participation in incentive programs for any public safety purpose~~  
228 ~~related to the enforcement of state and federal immigration laws; and~~

229 ~~(4) When reasonably possible, applicable state agencies shall consider incentive~~  
230 ~~programs and grant funding for the purpose of assisting and encouraging state and local~~

231 ~~agencies and departments to enter into agreements with federal entities and to utilize~~  
232 ~~federal resources consistent with the provisions of this Code section.~~

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

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

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

248 ~~(f) **Penalty.** A local governing body of a law enforcement agency that violates this Code~~  
249 ~~section shall be subject to the withholding of state funding or state administered federal~~  
250 ~~funding other than funds for the purposes of providing those services specified in~~  
251 ~~subsection (d) of Code Section 50-36-1. As a condition of funding to a local governing~~  
252 ~~body, the Department of Community Affairs, the Department of Transportation, or any~~  
253 ~~other state agency that provides funding to local governing bodies shall require certification~~  
254 ~~pursuant to Code Section 50-36-4 as proof of compliance with this Code section. No~~  
255 ~~county commission shall be subject to the withholding of state or federal funding pursuant~~  
256 ~~to this subsection when a sheriff or his or her employee violates this Code section."~~

257 **SECTION 1-2.**

258 Said title is further amended by revising Code Section 35-3-160, relating to DNA analysis  
259 in felony convictions and certain felony charges and performance of tests, as follows:

260 "35-3-160.

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

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

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

267 (3) 'Division' means the Division of Forensic Sciences of the bureau.

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

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

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

276 ~~(C) Who has been convicted of a felony and is subject to an immigration detainer  
277 notice as such term is defined in Code Section 42-1-11.5.~~

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

282 (3) Paragraph (1) of this subsection shall not apply to any individual for a conviction for  
283 a misdemeanor, to any individual who is charged with a misdemeanor and the sentence

284 for such misdemeanor is imposed pursuant to Article 3 of Chapter 8 of Title 42 regarding  
285 first offenders, or because he or she has been charged with a misdemeanor.

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

## 292 PART II

### 293 SECTION 2-1.

294 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
295 amended in Code Section 17-4-23, relating to issuance of citation in lieu of arrest, issuance  
296 of warrants for arrest for failure of persons charged to appear in court, and bond, by revising  
297 paragraph (2) of subsection (a) as follows:

298 "(2) A law enforcement officer may arrest a person who meets the minimum age  
299 requirements provided for in Code Section 16-3-1 accused of any misdemeanor violation  
300 of Code Section 16-7-21, 16-8-14, 16-8-14.1, or 16-13-30 by the issuance of a citation,  
301 provided that such offense is committed in his or her presence or information constituting  
302 a basis for such arrest was received by the arresting officer or an investigating officer  
303 from another law enforcement officer or other individual observing or aware of such  
304 offense being committed. When an arrest is made for such offense, prior to releasing the  
305 accused on citation, the arresting law enforcement officer shall review the accused's  
306 criminal record as such is on file with the Federal Bureau of Investigation and the  
307 Georgia Crime Information Center within the Georgia Bureau of Investigation; and

308 ensure that the accused's fingerprints are obtained, ~~and shall seek to verify the~~  
309 ~~immigration status of the accused pursuant to Code Section 17-5-100."~~

310 **SECTION 2-2.**

311 Said title is further amended by revising Code Section 17-5-100, relating to investigation of  
312 illegal alien status, as follows:

313 "17-5-100.

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

315 ~~(1) 'Criminal violation' means a violation of state or federal criminal law but shall not~~  
316 ~~include a violation of a county or municipal law, regulation, or ordinance.~~

317 ~~(2) 'Illegal alien' means a person who is verified by the federal government to be present~~  
318 ~~in the United States in violation of the federal Immigration and Nationality Act.~~

319 ~~(b) Except as provided in subsection (f) of this Code section, during any investigation of~~  
320 ~~a criminal suspect by a peace officer, when such officer has probable cause to believe that~~  
321 ~~a suspect has committed a criminal violation, the officer shall seek to verify such suspect's~~  
322 ~~immigration status when the suspect is unable to provide one of the following:~~

323 ~~(1) A secure and verifiable document as defined in Code Section 50-36-2;~~

324 ~~(2) A valid Georgia driver's license;~~

325 ~~(3) A valid Georgia identification card issued by the Department of Driver Services;~~

326 ~~(4) If the entity requires proof of legal presence in the United States before issuance as~~  
327 ~~evidenced by inclusion in the list compiled by the State Law Department pursuant to~~  
328 ~~paragraph (5) of subsection (b) of Code Section 13-10-91, any valid driver's license from~~  
329 ~~a state or district of the United States or any valid identification document issued by the~~  
330 ~~United States federal government;~~

331 ~~(5) A document used in compliance with paragraph (2) of subsection (a) of Code~~  
332 ~~Section 40-5-21;~~

333 ~~(6) A document set forth in subsection (d) of Code Section 42-4-14; or~~

334 ~~(7) Other information as to the suspect's identity that is sufficient to allow the peace~~  
335 ~~officer to independently identify the suspect.~~

336 ~~(c) When attempting to determine the immigration status of a suspect pursuant to~~  
337 ~~subsection (b) of this Code section, a peace officer shall be authorized to use any~~  
338 ~~reasonable means available to determine the immigration status of the suspect, including:~~

339 ~~(1) Use of any authorized federal identification data base;~~

340 ~~(2) Identification methods authorized by federal law, including those authorized by 8~~  
341 ~~U.S.C.A. Section 1373(c) and 8 U.S.C.A. Section 1644;~~

342 ~~(3) Use of electronic fingerprint readers or similar devices; or~~

343 ~~(4) Contacting an appropriate federal agency.~~

344 ~~(d) A peace officer shall not consider race, color, or national origin in implementing the~~  
345 ~~requirements of this Code section except to the extent permitted by the Constitutions of~~  
346 ~~Georgia and of the United States.~~

347 ~~(e) If during the course of the investigation into such suspect's identity, a peace officer~~  
348 ~~receives verification that such suspect is an illegal alien, then such peace officer may take~~  
349 ~~any action authorized by state and federal law, including, but not limited to, detaining such~~  
350 ~~suspected illegal alien, securely transporting such suspect to any authorized federal or state~~  
351 ~~detention facility, or notifying the United States Department of Homeland Security or~~  
352 ~~successor agency. Nothing in this Code section shall be construed to hinder or prevent a~~  
353 ~~peace officer or law enforcement agency from arresting or detaining any criminal suspect~~  
354 ~~on other criminal charges.~~

355 ~~(f) No person who in good faith contacts or has contact with a state or local peace officer~~  
356 ~~or prosecuting attorney or member of the staff of a prosecuting attorney for the purpose of~~  
357 ~~acting as a witness to a crime, to report criminal activity, or to seek assistance as a victim~~  
358 ~~to a crime shall have his or her immigration status investigated based on such contact or~~  
359 ~~based on information arising from such contact.~~

360 ~~(g) A peace officer, prosecuting attorney, or government official or employee, acting in~~  
361 ~~good faith to carry out any provision of this Code section, shall have immunity from~~  
362 ~~damages or liability from such actions. Reserved."~~

363 **SECTION 2-3.**

364 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
365 by revising Code Section 36-80-23, relating to prohibition on immigration sanctuary policies  
366 by local governmental entities, certification of compliance, and punishment, as follows:

367 "36-80-23.

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

369 ~~(1) 'Federal officials or law enforcement officers' means any person employed by the~~  
370 ~~United States government for the purpose of enforcing or regulating federal immigration~~  
371 ~~laws and any peace officer certified by the Georgia Peace Officer Standards and Training~~  
372 ~~Council where such federal official or peace officer is acting within the scope of his or~~  
373 ~~her employment for the purpose of enforcing federal immigration laws or preserving~~  
374 ~~homeland security.~~

375 ~~(2) 'Immigration status' means the legality or illegality of an individual's presence in the~~  
376 ~~United States as determined by the federal Immigration and Nationality Act.~~

377 ~~(3) 'Immigration status information' means any information, not including any~~  
378 ~~information required by law to be kept confidential but otherwise including, but not~~  
379 ~~limited to, any statement, document, computer generated data, recording, or photograph,~~  
380 ~~which is relevant to immigration status or the identity or location of an individual who~~  
381 ~~is reasonably believed to be illegally residing within the United States or who is~~  
382 ~~reasonably believed to be involved in domestic terrorism in violation of Code Section~~  
383 ~~16-11-221 or a terroristic act as that term is defined by Code Section 35-3-62.~~

384 ~~(4) 'Local governing body' means any political subdivision of this state, including any~~  
385 ~~county, consolidated government, municipality, authority, school district, commission,~~

386 ~~board, or any other local public body corporate, governmental unit, sheriff's office, law~~  
387 ~~enforcement agency, or political subdivision.~~

388 ~~(5) 'Local official or employee' means any elected or appointed official, supervisor or~~  
389 ~~managerial employee, contractor, agent, or certified peace officer acting on behalf of or~~  
390 ~~in conjunction with a local governing body.~~

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

397 ~~(b) No local governing body, whether acting through its governing body or by an initiative,~~  
398 ~~referendum, or any other process, shall enact, adopt, implement, or enforce any sanctuary~~  
399 ~~policy.~~

400 ~~(c) Any local governing body that acts in violation of this Code section shall be subject to~~  
401 ~~the withholding of state funding or state administered federal funding other than funds to~~  
402 ~~provide services specified in subsection (d) of Code Section 50-36-1.~~

403 ~~(d) As a condition of funding, the Department of Community Affairs, the Department of~~  
404 ~~Transportation, or any other state agency that provides funding to local governing bodies~~  
405 ~~shall require certification pursuant to Code Section 50-36-4 as proof of compliance with~~  
406 ~~this Code section.~~

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

409 ~~(2) A person convicted of a violation of this Code section shall be punished as for a~~  
410 ~~misdemeanor. A person convicted of a second or subsequent violation of this Code~~  
411 ~~section shall be punished as for a misdemeanor of a high and aggravated nature.~~

412 Reserved."

413 **SECTION 2-4.**

414 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended  
415 by revising Code Section 42-1-11.4, relating to reports regarding foreign-born inmates in  
416 custody, as follows:

417 "42-1-11.4.

418 ~~The commissioner shall, on the official public website used by the department, publish a~~  
419 ~~report of aggregate data on the immigration status, offenses, and home countries of inmates~~  
420 ~~who are confined under the authority of the department who are not citizens of the United~~  
421 ~~States and to whom the United States Immigration and Customs Enforcement Division of~~  
422 ~~the Department of Homeland Security has issued immigration detainer notices as such term~~  
423 ~~is defined in Code Section 42-1-11.5. Each report shall include the total number of inmates~~  
424 ~~who are not citizens of the United States; provided, however, that any inmates who are~~  
425 ~~citizens of both the United States and one or more other countries shall be designated as~~  
426 ~~such as a separate category. Such report shall be first published on October 1, 2024, and~~  
427 ~~every 90 days thereafter; provided, however, that if the ninetieth day falls on a state holiday~~  
428 ~~or Saturday or Sunday, then such report shall be published the next business day.~~  
429 Reserved."

430 **SECTION 2-5.**

431 Said title is further amended by revising Code Section 42-1-11.5, relating to compliance with  
432 immigration detainer notices, as follows:

433 "42-1-11.5.

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

435 (1) ~~'Custodial authority' means the commissioner if a person is in physical custody at a~~  
436 ~~penal institution, the sheriff if a person is in physical custody at a county jail, the warden~~  
437 ~~if a person is in physical custody at county correctional institution, and the chief of police~~  
438 ~~if a person is in physical custody at a municipal detention facility.~~

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

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

445 ~~(1) Comply with, honor, and fulfill any request made in the immigration detainer notice;~~  
 446 ~~and~~

447 ~~(2) Inform the person identified in the immigration detainer notice that the person is~~  
 448 ~~being held pursuant to such notice. Reserved.~~

449 **SECTION 2-6.**

450 Said title is further amended by revising Code Section 42-4-14, relating to identity  
 451 verification of persons confined in a jail or detention facility, as follows:

452 "42-4-14.

453 (a) As used in this Code section, the term 'illegal alien' means a person who is verified by  
 454 the federal government to be present in the United States in violation of the federal  
 455 Immigration and Nationality Act.

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

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

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

463 (c) If a person to be admitted to a county jail or municipal detention facility claims to be  
 464 a consular officer or diplomat, the jailer shall attempt to obtain such person's identification

465 and, upon verification of such person's status as a consular officer or diplomat, provide for  
466 his or her immediate release. If a person who claims to be a consular officer or diplomat  
467 is unable to produce credentials which provide for verification of diplomatic status, a  
468 person in a supervisory role at such jail or detention facility shall contact the United States  
469 Department of State during normal business hours or the Command Center of the Office  
470 of Security of the United States Department of State outside of normal business hours to  
471 request verification of such person's status as a consular officer or of other diplomatic  
472 status.

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

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

481 ~~(B) A permanent resident alien card Form 551;~~

482 ~~(C) A valid Nexus card;~~

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

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

488 ~~(2) If a person fails to produce a document required by this subsection, or verification~~  
489 ~~of the authenticity of any such document is necessary, a person in a supervisory role at~~  
490 ~~the county jail or municipal detention facility shall contact the Law Enforcement Support~~  
491 ~~Center (LESC) of the United States Department of Homeland Security or the Atlanta~~

492 ~~office of the United States Immigration and Customs Enforcement Division of the~~  
493 ~~Department of Homeland Security for a determination of the person's lawful presence.~~  
494 ~~If the LESC of the United States Department of Homeland Security responds to contact~~  
495 ~~pursuant to this paragraph with a request to detain an illegal alien, he or she shall not be~~  
496 ~~released within 48 hours of receipt of such request; provided, however, that if such person~~  
497 ~~was released prior to such request to detain, such fact shall be communicated to the LESC~~  
498 ~~of the United States Department of Homeland Security. Any response received pursuant~~  
499 ~~to this paragraph which indicates an illegal alien is confined in a county jail or municipal~~  
500 ~~detention facility shall be forwarded to the local United States Immigration and Customs~~  
501 ~~Enforcement Division of the Department of Homeland Security.~~

502 ~~(3) No person shall be detained solely due to the inability to contact the LESC of the~~  
503 ~~United States Department of Homeland Security pursuant to the provisions of this~~  
504 ~~subsection.~~

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

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

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

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

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

521 ~~(2) A person convicted of a violation of this Code section shall be punished as for a~~  
 522 ~~misdemeanor. A person convicted of a second or subsequent violation of this Code~~  
 523 ~~section shall be punished as for a misdemeanor of a high and aggravated nature."~~

524 **SECTION 2-7.**

525 Said title is further amended by revising Code Section 42-4-16, relating to inmate reports by  
 526 county jails and municipal detention facilities, as follows:

527 "42-4-16.

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

532 ~~(1) The total number of inmates booked into the county jail or municipal detention~~  
 533 ~~facility;~~

534 ~~(2) The total number of inquiries made to the Law Enforcement Support Center (LESC)~~  
 535 ~~of the United States Department of Homeland Security or any other federal agency~~  
 536 ~~inquiring relating to the immigration status or prior arrests of foreign-born inmates;~~

537 ~~(3) The total number of responses received for requests made by the county jail or~~  
 538 ~~municipal detention facility pursuant to paragraph (2) of this subsection;~~

539 ~~(4) The total number of responses as provided for in paragraph (3) of this subsection that~~  
 540 ~~indicated a foreign-born inmate of the county jail or municipal detention facility is an~~  
 541 ~~illegal alien as such term is defined in Code Section 42-4-14;~~

542 ~~(5) The number of immigration detainers issued by the United States Immigration and~~  
 543 ~~Customs Enforcement Division of the Department of Homeland Security for prisoners~~  
 544 ~~in the county jail or municipal detention facility; and~~

545 ~~(6) A sworn affidavit signed by the individual in a supervisory role at the county jail or~~  
546 ~~municipal detention facility verifying compliance with Code Section 42-4-14 and all~~  
547 ~~other applicable law.~~

548 ~~(b) Any person who knowingly and willfully makes a false, fictitious, or fraudulent~~  
549 ~~statement of representation in a report required by this Code section shall be guilty of a~~  
550 ~~violation of Code Section 16-10-20. Reserved.~~

551 **SECTION 2-8.**

552 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
553 is amended by revising Code Section 45-15-10, relating to Attorney General authorized to  
554 prosecute for violations while dealing with or for state, assistance by state court prosecuting  
555 officers, commencement of civil proceedings, and investigation and prosecution of violations  
556 of immigration compliance reports, as follows:

557 "45-15-10.

558 The Attorney General, as the head of the Department of Law and the chief legal officer of  
559 the state, is authorized to:

560 (1) Prosecute in the criminal courts of this state any official, person, firm, or corporation  
561 which violates any criminal statute while dealing with or for the state or any official,  
562 employee, department, agency, board, bureau, commission, institution, or appointee  
563 thereof;

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

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

571 ~~(4) Investigate and prosecute violations of Code Sections 36-80-23, 42-4-14, and~~  
 572 ~~42-4-16; and~~  
 573 ~~(5)(4) Investigate failure to comply with Code Sections Section 35-1-17, 42-1-11.4,~~  
 574 ~~42-1-11.5, and 50-36-4."~~

575 **SECTION 2-9.**

576 Title 50 of the Official Code of Georgia Annotated, relating state government, is amended  
 577 by revising Code Section 50-36-4, relating to submission of annual immigration compliance  
 578 report, creation of reporting system, contents of reports, and annual review, as follows:  
 579 "50-36-4.

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

581 (1) 'Agency or political subdivision' means any department, agency, authority,  
 582 commission, or governmental entity of this state or any subdivision of this state.

583 (2) 'Annual reporting period' means from December 1 of the preceding year through  
 584 November 30 of the year in which the report is due.

585 (3) 'Contractor' shall have the same meaning as set forth in Code Section 13-10-90.

586 (4) 'Department' means the Department of Audits and Accounts.

587 (5) 'Physical performance of services' shall have the same meaning as set forth in Code  
 588 Section 13-10-90.

589 (6) 'Public employer' shall have the same meaning as set forth in Code Section 13-10-90.

590 (b) Each agency, sheriff's office, law enforcement agency, or political subdivision subject  
 591 to any of the requirements provided in Code Sections 13-10-91, 35-1-17, 36-60-6,  
 592 ~~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  
 593 immigration compliance report to the department by December 31 that includes the  
 594 information required under subsection (d) of this Code section for the annual reporting  
 595 period. If an agency or political subdivision is exempt from any, but not all, of the

596 provisions of subsection (d) of this Code section, it shall still be required to submit the  
597 annual report but shall indicate in the report which requirements from which it is exempt.

598 (c) The department shall create an immigration compliance reporting system and shall  
599 provide technical support for the submission of such reports. The department shall further  
600 provide annual notification of such reports with submission instructions to all agencies and  
601 political subdivisions subject to such requirements. The department shall be authorized to  
602 implement policy as is needed to carry out the requirements of this subsection.

603 (d) The immigration compliance report provided for in subsection (b) of this Code section  
604 shall contain the following:

605 (1) The agency or political subdivision's federal work authorization program verification  
606 user number and date of authorization;

607 (2) The legal name, address, and federal work authorization program user number of  
608 every contractor that has entered into a contract for the physical performance of services  
609 with a public employer as required under Code Section 13-10-91 during the annual  
610 reporting period;

611 (3) The date of the contract for the physical performance of services between the  
612 contractor and public employer as required under Code Section 13-10-91;

613 (4) A listing of each license or certificate issued by a county or municipal corporation  
614 to private employers that are required to utilize the federal work authorization program  
615 under the provisions of Code Section 36-60-6 during the annual reporting period,  
616 including the name of the person and business issued a license and his or her federally  
617 assigned employment eligibility verification system user number as provided in the  
618 private employer affidavit submitted at the time of application;

619 (5)(A) A listing of each public benefit administered by the agency or political  
620 subdivision and a listing of each public benefit for which SAVE program authorization  
621 for verification has not been received.

622 (B) As used in this paragraph, the terms 'public benefit' and 'SAVE program' shall have  
623 the same meanings as set forth in Code Section 50-36-1; and  
624 ~~(6) The agency or political subdivision's certificate of compliance with Code~~  
625 ~~Section 36-80-23; and~~  
626 ~~(7)~~(6) Where applicable, the agency, sheriff's office, law enforcement agency, or political  
627 subdivision's certificate of compliance with Code Sections Section 35-1-17, 42-1-11.4,  
628 42-1-11.5, 42-4-14, and 42-4-16.

629 ~~(e) The department shall annually conduct random reviews of no less than 5 percent of the~~  
630 ~~immigration compliance reports submitted pursuant to this Code section and shall make the~~  
631 ~~determination of compliance pursuant to this Code section.~~ In the event that the  
632 immigration compliance report submitted by an agency or political subdivision is found to  
633 be deficient by the department, so long as a new immigration compliance report is  
634 submitted with the prior deficiencies corrected and fully complies with this Code section,  
635 such agency or political subdivision shall be deemed to have satisfied the requirements of  
636 this Code section.

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

640

**PART III**

641

**SECTION 3-1.**

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