

House Bill 1105

By: Representatives Petrea of the 166<sup>th</sup>, Collins of the 71<sup>st</sup>, Bonner of the 73<sup>rd</sup>, Dunahoo of the 31<sup>st</sup>, Barton of the 5<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 42 of the Official Code of Georgia Annotated, relating to penal institutions,  
2 so as to require the commissioner of corrections to report certain information regarding the  
3 immigration status, offenses, and home countries of persons who are confined under the  
4 authority of the Department of Corrections; to provide for standard procedures for intake and  
5 booking of aliens and foreign nationals; to provide for quarterly reports by jailers regarding  
6 foreign born inmates; to provide for penalties; to provide for related matters; to provide for  
7 a short title; to provide an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as "The Georgia Criminal Alien Track and Report  
11 Act of 2024."

12 **SECTION 2.**

13 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended  
14 in Article 1 of Chapter 1, relating to inmate policies, by adding a new Code section to read  
15 as follows:

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16 "42-1-11.4.  
17 The commissioner shall, on the official website used by the department, publish a report  
18 of aggregate data on the immigration status, offenses, and home countries of inmates who  
19 are not United States citizens, who are confined under the authority of the department, and  
20 regarding whom the United States Immigration and Customs Enforcement Division of the  
21 Department of Homeland Security has issued immigration detainers. Each report shall  
22 include the total number of inmates who are not citizens of the United States, provided that  
23 inmates who are citizens of both the United States and one or more other countries shall  
24 be designated in a separate category. Such report shall be first published on  
25 October 1, 2024, and every 90 days thereafter; provided, however, that if the ninetieth day  
26 falls on a state holiday or Saturday or Sunday, then such report shall be published the next  
27 business day."

28 **SECTION 3.**

29 Said title is further amended in Article 1 of Chapter 4, relating to jails, by revising Code  
30 Section 42-4-14, relating to "illegal alien" defined and determination of nationality and  
31 verification of lawful admission of person confined in a jail facility, as follows:

32 "42-4-14.

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

36 (b) When any person is confined, for any period, in the jail of a county or municipality or  
37 a jail operated by a regional jail authority in compliance with Article 36 of the Vienna  
38 Convention on Consular Relations, a reasonable effort shall be made to determine the  
39 nationality of the person so confined.

40 (c) When any foreign national is confined, for any period, in a county or municipal jail,  
41 a reasonable effort shall be made to verify that such foreign national has been lawfully

42 admitted to the United States and, if lawfully admitted, that such lawful status has not  
43 expired. If verification of lawful status cannot be made from documents in the possession  
44 of the foreign national, verification shall be made within 48 hours through a query to the  
45 Law Enforcement Support Center (LESC) of the United States Department of Homeland  
46 Security or other office or agency designated by the federal government. If ~~the foreign~~  
47 ~~national is determined to be an illegal alien~~ lawful admission and current lawful status of  
48 the foreign national is not confirmed, the ~~keeper of the jail~~ jailer or other officer shall notify  
49 the United States Department of Homeland Security, or other office or agency designated  
50 for notification by the federal government.

51 (d)(1)(A) Suspected foreign nationals admitted to the jail shall be positively identified  
52 and processed into the facility unless the individual's status as consular officer or  
53 diplomat is verified.

54 (B) When a suspected foreign national is admitted into the jail, the booking officer  
55 shall obtain at least one of the following documents from the individual:

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

58 (ii) A valid, unexpired passport indicating that a visa was issued;

59 (iii) A permanent resident alien card Form 551;

60 (iv) A valid Nexus card;

61 (v) A valid global entry identification card issued by the United States Department  
62 of Homeland Security; or

63 (vi) A valid passport indicating the bearer is a citizen of a country participating in a  
64 visa waiver program administered by the United States Department of State.

65 (C) If a suspected foreign national does not produce a copy of one of the documents  
66 set forth in subparagraph (B) of this paragraph, or if verification of any such document  
67 is required, the jail's shift supervisor shall contact the LESK of the United States  
68 Department of Homeland Security or the United States Immigration and Customs

69 Enforcement Division of the Department of Homeland Security in Atlanta, Georgia for  
70 a determination of the nationality and immigration status of the suspected foreign  
71 national.

72 (D) Foreign nationals shall be admitted, classified, and housed in the same manner as  
73 all other inmates of the jail.

74 (E) If a newly admitted inmate claims to be a consular officer or to have diplomatic  
75 status, the jail officer shall obtain the inmate's personal identification.

76 (F) If an inmate described in subparagraph (E) of this paragraph is unable to produce  
77 the proper credentials or verification of diplomatic status as required, the jail officer  
78 shall contact the United States Department of State during its normal working hours or  
79 the Command Center of the Office of Security of the United States Department of State  
80 outside of such working hours to request verification of the inmate's status as a  
81 consular officer or of other diplomatic status.

82 (G) Once an inmate's status is verified as a consular officer or diplomat, he or she shall  
83 be immediately released.

84 (2)(A) Foreign nationals shall be admitted to the jail pursuant to standard admissions  
85 procedures.

86 (B) In the event of a failure of communication between jail staff and an inmate as a  
87 result of language, the jailer shall contact an interpreter to assist with the booking and  
88 identification process.

89 (C) The booking jail officer shall determine the nationality of each arrestee received  
90 by the jail. If jail staff suspects the inmate is a foreign national, jail staff shall ask the  
91 inmate to provide documentation that he or she lawfully entered the United States and  
92 that such lawful status is still valid.

93 (D) If the inmate is unable to provide documentation indicating their lawful status, jail  
94 staff shall contact the LESC of the United States Department of Homeland Security to  
95 determine the inmate's lawful status in the United States.

96 (E) If the LESC of the United States Department of Homeland Security responds to  
97 contact pursuant to subparagraph (B) of this paragraph with a message to contact them  
98 for instructions on procuring an immigration detainer for the inmate and the inmate is  
99 still in custody, the inmate shall not be released until after such contact is made. If the  
100 inmate has already been released prior to such notification from the LESC of the United  
101 States Department of Homeland Security, the jail officer shall advise the LESC of the  
102 United States Department of Homeland Security of such fact.

103 (F) Responses of illegal status shall be automatically forwarded to the local United  
104 States Immigration and Customs Enforcement Division of the Department of Homeland  
105 Security by the LESC of the United States Department of Homeland Security. Inmates  
106 who the jail officer suspects to be illegal aliens shall not be detained solely because of  
107 the unavailability of after hours contact information.

108 (G) An inmate identified as an illegal alien shall not be detained on the basis of being  
109 an illegal alien unless the LESC of the United States Department of Homeland Security  
110 or the local United States Immigration and Customs Enforcement Division of the  
111 Department of Homeland Security specifically provides written instructions for  
112 detaining such inmate as an illegal alien. The existence of an arrest warrant shall be  
113 verified with the United States Immigration and Customs Enforcement Division of the  
114 Department of Homeland Security within 24 hours of the placement of the immigration  
115 detainer.

116 (H) Inmates shall be held no longer than 48 hours pursuant to an immigration detainer  
117 or an immigration warrant, unless such warrant is signed by a federal judge or federal  
118 magistrate. An immigration warrant signed by any immigration official other than a  
119 federal judge or federal magistrate shall be treated as an immigration detainer. If an  
120 immigration warrant signed by a federal judge or federal magistrate is not received by  
121 the jail officer within 48 hours, or if United States Immigration and Customs  
122 Enforcement Division of the Department of Homeland Security officials do not take

123 custody of the inmate within 48 hours, the inmate shall be eligible for release from the  
 124 jail's custody.

125 (I) Suspected illegal aliens with immigration detainers issued for more than 48 hours  
 126 shall not be released from custody without prior supervisor approval.

127 (J) This subsection does not relieve the jail officer of the requirement to notify the  
 128 appropriate consulate of foreign nationals.

129 (K) It shall be the duty of the jail officer to maintain in each inmate's file a record of  
 130 all communications with the United States Immigration and Customs Enforcement  
 131 Division of the Department of Homeland Security.

132 (e) Nothing in this Code section shall be construed to deny a person bond or from being  
 133 released from confinement when such person is otherwise eligible for release; provided,  
 134 however, that upon verification that any person confined in a jail is an illegal alien, such  
 135 person may be detained, arrested, and transported as authorized by state and federal law.

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

138 (f)(1) It shall be unlawful for any jailer to violate any provision of this Code section.

139 (2) Any person found guilty of violating this Code section shall be punished for a  
 140 misdemeanor of a high and aggravated nature."

141 **SECTION 4.**

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

143 "42-4-14.1.

144 (a) Jailers shall at least quarterly prepare a report to be posted on the website of the  
 145 jurisdiction of each such jailer and on the website of the Department of Audits and  
 146 Accounts regarding his or her jail, and such report shall include regarding the most recent  
 147 quarter:

148 (1) The total number of inmates booked into the jail;

- 149 (2) The total number of foreign born inmates included in the total provided for in  
150 paragraph (1) of this subsection;
- 151 (3) The total number of inquiries made to the Law Enforcement Support Center (LESC)  
152 of the United States Department of Homeland Security or any other federal agency  
153 inquiring about the immigration status or prior arrests of foreign born inmates;
- 154 (4) The total number of responses from the LESC of the United States Department of  
155 Homeland Security or any other federal agency inquiring about the immigration status  
156 or prior arrests of foreign born inmates;
- 157 (5) The total number of responses as provided for in paragraph (4) of this subsection that  
158 indicate a foreign born inmate to be unlawfully within the United States;
- 159 (6) Any information about the inmate's lawful entry into the United States, including the  
160 date of entry and visa type if the length of the inmate's stay in the United States is not  
161 authorized by his or her visa;
- 162 (7) The number of immigration detainers issued by the United States Immigration and  
163 Customs Enforcement Division of the Department of Homeland Security for prisoners  
164 in the jail; and
- 165 (8) A statement by the jailer verifying that all requirements of subsection (e) of Code  
166 Section 42-4-14 have been complied with and that the jail is in compliance with all  
167 applicable law.
- 168 (b) Jailers shall be subject to prosecution pursuant to Code Section 16-10-20 for violations  
169 of such Code section."

170 **SECTION 5.**

171 This Act shall become effective upon approval by the Governor or upon becoming law  
172 without such approval.

173

**SECTION 6.**

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