

The House Committee on Public Safety and Homeland Security offers the following substitute to HB 1105:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 35 of the Official Code of Georgia Annotated, relating to  
2 general provisions for law enforcement officers and agencies, so as to require local law  
3 enforcement to cooperate with federal authorities on the enforcement of immigration laws;  
4 to require law enforcement agencies to apply to enter memorandums of understanding with  
5 federal authorities to enforce federal immigration and customs laws and the detention,  
6 removal, and investigation of illegal aliens; to provide penalties for noncompliance; to amend  
7 Article 1 of Chapter 4 of Title 42 of the Official Code of Georgia Annotated, relating to  
8 general provisions of jails, so as to provide for standard procedures for intake and booking  
9 of aliens and foreign nationals; to provide for penalties; to require sheriffs, jailers, and  
10 deputies to honor immigration detainer requests issued by the Department of Homeland  
11 Security; to provide a definition; to provide for quarterly reports by jailers regarding foreign  
12 born inmates; to provide for related matters; to provide for a short title; to provide an  
13 effective date; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

15  
16 This Act shall be known and may be cited as "The Georgia Criminal Alien Track and Report  
17 Act of 2024."

**SECTION 2.**

18  
19 Chapter 1 of Title 35 of the Official Code of Georgia Annotated, relating to general  
20 provisions for law enforcement officers and agencies, is amended by revising Code  
21 Section 35-1-17, relating to local law enforcement agencies to enter into agreements with  
22 federal agencies for the enforcement of immigration laws, as follows:

23 "35-1-17.

24 (a) **Legislative intent.** It is the intent of the General Assembly to ~~encourage~~ require  
25 Georgia law enforcement officials to work in conjunction with federal immigration  
26 authorities and to utilize all resources made available by the federal government to assist  
27 state and local law enforcement officers in the enforcement of the immigration laws of this  
28 state and of the United States.

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

30 (1) To the extent authorized by federal law, state and local government employees,  
31 including law enforcement officers and prosecuting attorneys, shall ~~be authorized to~~ send,  
32 receive, and maintain information relating to the immigration status of any individual as  
33 reasonably needed for public safety purposes. Except as provided by federal law, such  
34 employees shall not be prohibited from receiving or maintaining information relating to  
35 the immigration status of any individual or sending or exchanging such information with  
36 other federal, state, or local governmental entities or employees for official public safety  
37 purposes;

38 (2) ~~State and local~~ When eligible, local agencies shall be required to apply for, and such  
39 agencies as well as state agencies are authorized to enter into memorandums of  
40 understanding and agreements with the United States Department of Justice, the

41 Department of Homeland Security, or any other federal agency for the purpose of  
42 enforcing federal immigration and customs laws and the detention, removal, and  
43 investigation of illegal aliens and the immigration status of any person in this state. A  
44 peace officer acting within the scope of his or her authority under any such memorandum  
45 of understanding, agreement, or other authorization from the federal government shall  
46 have the power to arrest, with probable cause, any person suspected of being an illegal  
47 alien;

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

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

56 (c) **Authority to transport illegal aliens.** If a state or local law enforcement officer has  
57 verification that a person is an illegal alien, then such officer shall be authorized to securely  
58 transport such illegal alien to a federal facility in this state or to any other temporary point  
59 of detention and to reasonably detain such illegal alien when authorized by federal law.  
60 Nothing in this Code section shall be construed to hinder or prevent a peace officer or law  
61 enforcement agency from arresting or detaining any criminal suspect on other criminal  
62 charges.

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

66 (e) **Immunity.** A law enforcement officer or government official or employee, acting in  
67 good faith to enforce immigration laws pursuant to an agreement with federal authorities

68 to collect or share immigration status information, or to carry out any provision of this  
69 Code section, shall have immunity from damages or liability from such actions.

70 (f)(1) Any sheriff's office or law enforcement agency of a local governing body that acts  
71 in violation of this Code section shall be subject to the withholding of state funding or  
72 state administered federal funding other than funds to provide services specified in  
73 subsection (d) of Code Section 50-36-1. As a condition of funding to a local governing  
74 body, the Department of Community Affairs, the Department of Transportation, or any  
75 other state agency that provides funding to local governing bodies shall require  
76 certification pursuant to Code Section 50-36-4 as proof of compliance with this Code  
77 section.

78 (2) All funding withheld from a sheriff's office pursuant to paragraph (1) of this  
79 subsection for a violation of this Code section shall be remitted to the county, and any  
80 funds received by such sheriff's office from any source other than funds appropriated by  
81 the county shall be remitted to the county. The county shall not be penalized for having  
82 funding withheld from the sheriff's office conducting acts in violation of this Code  
83 section."

84 **SECTION 3.**

85 Article 1 of Chapter 4 of Title 42 of the Official Code of Georgia Annotated, relating to  
86 general provisions of jails, is amended by revising Code Section 42-4-14, relating to "illegal  
87 alien" defined and determination of nationality and verification of lawful admission of person  
88 confined in a jail facility, as follows:

89 "42-4-14.

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

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

97 (c) When any foreign national is confined, for any period, in a county or municipal jail,  
98 a reasonable effort shall be made to verify that such foreign national has been lawfully  
99 admitted to the United States and, if lawfully admitted, that such lawful status has not  
100 expired. If verification of lawful status cannot be made from documents in the possession  
101 of the foreign national, verification shall be made within 48 hours through a query to the  
102 Law Enforcement Support Center (LESC) of the United States Department of Homeland  
103 Security or other office or agency designated by the federal government. If ~~the foreign~~  
104 ~~national is determined to be an illegal alien~~ lawful admission and current lawful status of  
105 the foreign national is not confirmed, the ~~keeper of the jail jailer~~ or other officer shall notify  
106 the United States Department of Homeland Security, or other office or agency designated  
107 for notification by the federal government.

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

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

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

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

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

117 (iv) A valid Nexus card;

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

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

122 (C) If a suspected foreign national does not produce a copy of one of the documents  
123 set forth in subparagraph (B) of this paragraph, or if verification of any such document  
124 is required, the jail's shift supervisor shall contact the LESC of the United States  
125 Department of Homeland Security or the United States Immigration and Customs  
126 Enforcement Division of the Department of Homeland Security in Atlanta, Georgia, for  
127 a determination of the nationality and immigration status of the suspected foreign  
128 national.

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

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

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

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

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

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

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

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

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

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

165 (G) An inmate identified as an illegal alien shall not be detained on the basis of being  
166 an illegal alien unless the LESC of the United States Department of Homeland Security  
167 or the local United States Immigration and Customs Enforcement Division of the  
168 Department of Homeland Security specifically provides written instructions for  
169 detaining such inmate as an illegal alien. The existence of an arrest warrant shall be  
170 verified with the United States Immigration and Customs Enforcement Division of the  
171 Department of Homeland Security within 24 hours of the placement of the immigration  
172 detainer.

173 (H) Inmates shall be held no longer than 48 hours pursuant to an immigration detainer  
174 or an immigration warrant, unless such warrant is signed by a federal judge or federal  
175 magistrate. An immigration warrant signed by any immigration official other than a  
176 federal judge or federal magistrate shall be treated as an immigration detainer. If an  
177 immigration warrant signed by a federal judge or federal magistrate is not received by  
178 the jail officer within 48 hours, or if United States Immigration and Customs  
179 Enforcement Division of the Department of Homeland Security officials do not take  
180 custody of the inmate within 48 hours, the inmate shall be eligible for release from the  
181 jail's custody.

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

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

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

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

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

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

196 (2) A first violation of this Code section shall be considered a violation of oath of office.  
197 A person found guilty of a second or subsequent violation of this Code section shall be  
198 punished for a misdemeanor of a high and aggravated nature."



**SECTION 4.**

199

200 Said article is further amended by adding new Code sections to read as follows:

201 "42-4-16.

202 (a) As used in this Code section, 'immigration detainer request' means a federal  
203 government request to a local entity to maintain temporary custody of an alien, including  
204 a United States Department of Homeland Security Form I-247 document or a similar  
205 successor form.

206 (b) All sheriffs, jailers, and deputies who have custody of a person who is subject to an  
207 immigration detainer request issued by the United States Immigration and Customs  
208 Enforcement shall:

209 (1) Comply with, honor, and fulfill any request made in the immigration detainer request  
210 provided by the United States Immigration and Customs Enforcement; and

211 (2) Inform the person identified in the immigration detainer request that the person is  
212 being held pursuant to an immigration detainer issued by the United States Immigration  
213 and Customs Enforcement.

214 (c) A sheriff, jailer, or deputy shall not be required to perform a duty imposed by  
215 subsection (b) of this Code section with respect to a person who has provided proof that he  
216 or she is a citizen of the United States. Such proof may include:

217 (1) A driver's license or identification card issued pursuant to Article 1 of Chapter 5 of  
218 Title 40; or

219 (2) Government issued identification issued by the federal government or another state.

220 42-4-17.

221 (a) Jailers shall at least quarterly prepare a report to be posted on the website of the  
222 jurisdiction of each such jailer and on the website of the Georgia Sheriff's Association  
223 regarding his or her jail, and such report shall include regarding the most recent quarter:

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

- 225 (2) The total number of foreign born inmates included in the total provided for in  
226 paragraph (1) of this subsection;
- 227 (3) The total number of inquiries made to the Law Enforcement Support Center (LESC)  
228 of the United States Department of Homeland Security or any other federal agency  
229 inquiring about the immigration status or prior arrests of foreign born inmates;
- 230 (4) The total number of responses from the LESC of the United States Department of  
231 Homeland Security or any other federal agency inquiring about the immigration status  
232 or prior arrests of foreign born inmates;
- 233 (5) The total number of responses as provided for in paragraph (4) of this subsection that  
234 indicate a foreign born inmate to be unlawfully within the United States;
- 235 (6) Any information about the inmate's lawful entry into the United States, including the  
236 date of entry and visa type if the length of the inmate's stay in the United States is not  
237 authorized by his or her visa;
- 238 (7) The number of immigration detainers issued by the United States Immigration and  
239 Customs Enforcement Division of the Department of Homeland Security for prisoners  
240 in the jail; and
- 241 (8) A statement by the jailer verifying that all requirements of subsection (d) of Code  
242 Section 42-4-14 have been complied with and that the jail is in compliance with all  
243 applicable law.
- 244 (b) Jailers shall be subject to prosecution pursuant to Code Section 16-10-20 for violations  
245 of this Code section."

246 **SECTION 5.**

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

249

**SECTION 6.**

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