

The House Committee on Judiciary Non-Civil offers the following substitute to HB 1083:

A BILL TO BE ENTITLED  
AN ACT

1 Chapter 80 of Title 36 of the Official Code of Georgia Annotated, relating to general  
2 provisions applicable to counties, municipal corporations, and other governmental entities,  
3 so as to revise the definition of "sanctuary policy"; to provide for a private civil cause of  
4 action for injury or death arising out of sanctuary policies; to provide for waiver of sovereign  
5 and governmental immunity under certain circumstances; to provide for trial by jury; to  
6 provide for reasonable costs and attorneys' fees; to provide for related matters; to repeal  
7 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 revising paragraph (6) of subsection (a) of Code Section 36-80-23, relating  
13 to prohibition on immigration sanctuary policies by local governmental entities and  
14 certification of compliance, and by adding a new subsection to read as follows:

15 (6) 'Sanctuary policy' ~~means any regulation, rule, policy, or practice adopted by a local~~  
16 ~~governing body which prohibits or restricts local officials or employees from~~  
17 ~~communicating or cooperating with federal officials or law enforcement officers with~~  
18 ~~regard to reporting immigration status information while such local official or employee~~  
19 ~~is acting within the scope of his or her official duties~~ means a law, policy, practice,  
20 procedure, or custom, formal or informal, written or unwritten, adopted or allowed by a  
21 state entity or local governmental entity which prohibits or impedes a law enforcement  
22 agency from complying with 8 U.S.C. Section 1373 or which prohibits or impedes a law  
23 enforcement agency from communicating or cooperating with a federal immigration  
24 agency so as to limit such law enforcement agency in or prohibit the agency from:

25 (A) Complying with an immigration detainer, including, but not limited to, requiring  
 26 a judicial warrant or other judicial order prior to complying with an immigration  
 27 detainer;

28 (B) Complying with a request from a federal immigration agency to notify the agency  
 29 before the release of an inmate or detainee in the custody of the law enforcement  
 30 agency;

31 (C) Providing a federal immigration agency access to an inmate for interview;

32 (D) Participating in any program or agreement authorized under Section 287 of the  
 33 federal Immigration and Nationality Act, 8 105 U.S.C. Section 1357; or

34 (E) Providing a federal immigration agency with an inmate's incarceration status or  
 35 release date."

36 "(e)(1) An individual injured by the tortious acts or omissions of a person unlawfully  
 37 present in the United States, or the personal representative of an individual killed by the  
 38 tortious acts or omissions of a person unlawfully present in the United States, shall have  
 39 a cause of action for damages against a local governing entity or law enforcement agency  
 40 of a local governing entity upon proof by the preponderance of the evidence of:

41 (A) The existence of a sanctuary policy by such local governing entity or law  
 42 enforcement agency of such local governing entity; and

43 (B) A failure to comply with this Code section resulting in such person having access  
 44 to the individual injured or killed when the tortious acts or omissions occurred.

45 (2) Sovereign immunity and governmental immunity of local governing entities or law  
 46 enforcement agencies of local governing entities is expressly waived to the extent of  
 47 liability created by this Code section.

48 (3) Trial by jury shall be a matter of right in an action brought under this Code section.

49 (4) The court in an action brought under this Code section may award reasonable costs  
 50 and attorneys' fees to the prevailing party."

51 **SECTION 2.**

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