

House Bill 1105 (RULES COMMITTEE SUBSTITUTE)

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

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:

H. B. 1105 (SUB)

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) A county shall not be penalized for having funding withheld from a sheriff's office
79 conducting acts in violation of this Code section."

80 **SECTION 3.**

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

85 "42-4-14.

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

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

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

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

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

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

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

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

113 (iv) A valid Nexus card;

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

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

118 (C) If a suspected foreign national does not produce a copy of one of the documents
119 set forth in subparagraph (B) of this paragraph, or if verification of any such document

120 is required, the jail's shift supervisor shall contact the LESC of the United States
121 Department of Homeland Security or the United States Immigration and Customs
122 Enforcement Division of the Department of Homeland Security in Atlanta, Georgia, for
123 a determination of the nationality and immigration status of the suspected foreign
124 national.

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

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

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

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

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

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

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

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

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

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

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

169 (H) Inmates shall be held no longer than 48 hours pursuant to an immigration detainer
170 or an immigration warrant, unless such warrant is signed by a federal judge or federal
171 magistrate. An immigration warrant signed by any immigration official other than a
172 federal judge or federal magistrate shall be treated as an immigration detainer. If an

173 immigration warrant signed by a federal judge or federal magistrate is not received by
 174 the jail officer within 48 hours, or if United States Immigration and Customs
 175 Enforcement Division of the Department of Homeland Security officials do not take
 176 custody of the inmate within 48 hours, the inmate shall be eligible for release from the
 177 jail's custody.

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

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

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

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

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

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

192 (2) A person found guilty of a first violation of this Code section shall be punished for
 193 a misdemeanor. A person found guilty of a second or subsequent violation of this Code
 194 section shall be punished for a misdemeanor of a high and aggravated nature."

195 **SECTION 4.**

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

197 "42-4-16.

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

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

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

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

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

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

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

216 42-4-17.

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

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

221 (2) The total number of foreign born inmates included in the total provided for in
222 paragraph (1) of this subsection;

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

242 **SECTION 5.**

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

245 **SECTION 6.**

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