

The Senate Committee on Public Safety offered the following substitute to HB 1105:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 17 of Official Code of Georgia Annotated, relating to criminal procedure, so
2 as to authorize immigration status verification prior to issuance of citation in lieu of arrest
3 for certain offenses; to provide for and revise definitions; to provide for acceptable
4 documentation for purposes of attempting to verify immigration status; to amend Chapter 1
5 of Title 35 of the Official Code of Georgia Annotated, relating to general provisions for law
6 enforcement officers and agencies, so as to require local agencies to seek memorandums of
7 understanding and agreement relative to assisting federal agencies with immigration laws;
8 to provide for penalties; to amend Code Section 36-80-23 of the Official Code of Georgia
9 Annotated, relating to prohibition on immigration sanctuary policies by local governmental
10 entities and certification of compliance, so as to provide for penalties relating to local
11 immigration sanctuary policies; to revise definitions; to amend Title 42 of the Official Code
12 of Georgia Annotated, relating to penal institutions, so as to provide for reporting of certain
13 information on inmates in custody of the Department of Corrections; to require custodial
14 authorities to honor immigration detainer notices; to provide for definitions; to provide for
15 standard procedures for intake of persons into a county jail or municipal detention facility;
16 to provide for required documentation; to provide for contact to certain federal agencies in
17 certain instances; to provide for penalties; to provide for quarterly reports regarding
18 foreign-born inmates in county jail or municipal detention facility; to provide for violation

19 and penalties; to amend Article 1 of Chapter 15 of Title 45 of the Official Code of Georgia
20 Annotated, relating to general provisions relative to the Attorney General, so as to provide
21 for prosecutorial and investigative authority in certain instances; to amend Chapter 36 of
22 Title 50 of the Official Code of Georgia Annotated, relating to verification of lawful presence
23 within United States, so as to revise required annual reporting requirements for agencies and
24 political subdivisions; to require the Department of Audits and Accounts to review and audit
25 such reports; to amend Chapter 3 of Title 35 of the Official Code of Georgia Annotated,
26 relating to DNA sampling, collection, and analysis, so as to require DNA collection of
27 convicted persons in custody subject to an immigration detainer notice; to provide for related
28 matters; to provide for a short title; to provide for legislative intent; to provide an effective
29 date; to repeal conflicting laws; and for other purposes.

30 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

31 **SECTION 1.**

32 This Act shall be known and may be cited as the "Georgia Criminal Alien Track and Report
33 Act of 2024."

34 **SECTION 2.**

35 (1) The provisions of this Act relating immigration terminology and definitions shall be
36 construed to have the same meanings as provided under federal immigration law.

37 (2) The provisions of this Act shall be implemented in a manner consistent with federal laws
38 governing immigration and civil rights.

39 (3) The Georgia General Assembly implores the State Board of Pardons and Paroles to not
40 release any illegal alien from confinement prior to completion of his or her sentence unless
41 such board is assured that federal immigration authorities will deport such illegal alien upon
42 release.

43

SECTION 3.

44 Title 17 of Official Code of Georgia Annotated, relating to criminal procedure, is amended
45 in Code Section 17-4-23, relating to procedure for arrests by citation for motor vehicle
46 violations, issuance of warrants for arrest for failure of persons charged to appear in court,
47 and bond, by revising paragraph (2) of subsection (a) as follows:

48 "(2) A law enforcement officer may arrest a person accused of any misdemeanor
49 violation of Code Section 16-7-21, 16-8-14, 16-8-14.1, or 16-13-30 by the issuance of a
50 citation, provided that such offense is committed in his or her presence or information
51 constituting a basis for such arrest was received by the arresting officer or an
52 investigating officer from another law enforcement officer or other individual observing
53 or aware of such offense being committed. When an arrest is made for such offense,
54 prior to releasing the accused on citation, the arresting law enforcement officer shall
55 review the accused's criminal record as such is on file with the Federal Bureau of
56 Investigation and the Georgia Crime Information Center within the Georgia Bureau of
57 Investigation ~~and~~, ensure that the accused's fingerprints are obtained, and be authorized
58 to seek to verify the immigration status of the accused pursuant to Code Section
59 17-5-100."

60

SECTION 4.

61 Said title is further amended in Code Section 17-5-100, relating to investigation of illegal
62 alien status, by revising paragraph (2) of subsection (a) and subsection (b) as follows:

63 "(2) 'Illegal alien' means a person who is verified by the federal government to be present
64 in the United States in violation of the federal ~~immigration law~~ Immigration and
65 Nationality Act."

66 "(b) Except as provided in subsection (f) of this Code section, during any investigation of
67 a criminal suspect by a peace officer, when such officer has probable cause to believe that
68 a suspect has committed a criminal violation, the officer shall be authorized to seek to

69 verify such suspect's immigration status when the suspect is unable to provide one of the
70 following:

- 71 (1) A secure and verifiable document as defined in Code Section 50-36-2;
72 (2) A valid Georgia driver's license;
73 (3) A valid Georgia identification card issued by the Department of Driver Services;
74 (4) If the entity requires proof of legal presence in the United States before issuance as
75 evidenced by inclusion in the list compiled by the State Law Department pursuant to
76 paragraph (5) of subsection (b) of Code Section 13-10-91, any valid driver's license from
77 a state or district of the United States or any valid identification document issued by the
78 United States federal government;
79 (5) A document used in compliance with paragraph (2) of subsection (a) of Code Section
80 40-5-21; or
81 (6) A document set forth in subsection (d) of Code Section 42-4-14; or
82 (7) Other information as to the suspect's identity that is sufficient to allow the peace
83 officer to independently identify the suspect."

84

SECTION 5.

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

89 "35-1-17.

- 90 (a) **Legislative intent.** It is the intent of the General Assembly to ~~encourage~~ promote
91 compliance with state law related to deterring the presence of criminal illegal aliens and
92 require Georgia law enforcement officials to work in conjunction with federal immigration
93 authorities and to utilize all resources made available by the federal government to assist

94 state and local law enforcement officers in the enforcement of the ~~immigration~~ laws of this
95 state and of the United States.

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

97 (1) To the extent authorized by federal law, state and local government employees,
98 including law enforcement officers and prosecuting attorneys, shall ~~be authorized to send,~~
99 receive, and maintain information relating to the immigration status of any individual as
100 reasonably needed for public safety purposes. Except as provided by federal law, such
101 employees shall not be prohibited from receiving or maintaining information relating to
102 the immigration status of any individual or sending or exchanging such information with
103 other federal, state, or local governmental entities or employees for official public safety
104 purposes;

105 (2) State and local agencies shall promote compliance with state law related to deterring
106 the presence of criminal illegal aliens and shall be authorized to enter into memorandums
107 of understanding and ~~agreements~~ memorandums of agreement with the United States
108 Department of Justice, the Department of Homeland Security, or any other federal agency
109 for the purpose of enforcing federal immigration ~~and customs laws and the detention,~~
110 ~~removal, and investigation of illegal aliens and the immigration status of any person in~~
111 ~~this state. A peace officer acting within the scope of his or her authority under any such~~
112 ~~memorandum of understanding, agreement, or other authorization from the federal~~
113 ~~government shall have the power to arrest, with probable cause, any person suspected of~~
114 ~~being an illegal alien.~~ laws, including 287(g) of the Illegal Immigration Reform and
115 Immigrant Responsibility Act of 1996 or a similar federal program. A local agency shall
116 seek such memorandums of understanding annually when no current memorandum of
117 agreement is in effect;

118 (3) Except as provided by federal law, no state or local agency or department shall be
119 prohibited from utilizing available federal resources, including data bases, equipment,

120 grant funds, training, or participation in incentive programs for any public safety purpose
121 related to the enforcement of state and federal immigration laws; and

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

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

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

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

141 (f) **Penalty.** A local governing body of a law enforcement agency that violates this Code
142 section shall be subject to the withholding of state funding or state administered federal
143 funding other than funds for the purposes of providing those services specified in
144 subsection (d) of Code Section 50-36-1. As a condition of funding to a local governing
145 body, the Department of Community Affairs, the Department of Transportation, or any
146 other state agency that provides funding to local governing bodies shall require certification

147 pursuant to Code Section 50-36-4 as proof of compliance with this Code section. No local
148 governing body shall be subject to the withholding of state or federal funding pursuant to
149 this subsection when a sheriff or his or her employee violates this Code section."

150

SECTION 6.

151 Code Section 36-80-23 of the Official Code of Georgia Annotated, relating to prohibition on
152 immigration sanctuary policies by local governmental entities and certification of
153 compliance, is amended by revising paragraphs (2), (4), and (6) of subsection (a) and by
154 adding a new subsection to read as follows:

155 "(2) 'Immigration status' means the legality or illegality of an individual's presence in the
156 United States as determined by the federal law Immigration and Nationality Act."

157 "(4) 'Local governing body' means any political subdivision of this state, including any
158 county, consolidated government, municipality, authority, school district, commission,
159 board, or any other local public body corporate, governmental unit, sheriff's office, law
160 enforcement agency, or political subdivision."

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

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

169 (2) A person convicted of a violation of this Code section shall be punished as for a
170 misdemeanor. A person convicted of a second or subsequent violation of this Code
171 section shall be punished as for a misdemeanor of a high and aggravated nature."

172

SECTION 7.

173 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended
174 by adding a new Code section to read as follows:

175 "42-1-11.4.

176 The commissioner shall, on the official public website used by the department, publish a
177 report of aggregate data on the immigration status, offenses, and home countries of inmates
178 who are confined under the authority of the department who are not citizens of the United
179 States and to whom the United States Immigration and Customs Enforcement Division of
180 the Department of Homeland Security has issued immigration detainer notices as such term
181 is defined in Code Section 42-4-16. Each report shall include the total number of inmates
182 who are not citizens of the United States; provided, however, that any inmates who are
183 citizens of both the United States and one or more other countries shall be designated as
184 such as a separate category. Such report shall be first published on October 1, 2024, and
185 every 90 days thereafter; provided, however, that if the ninetieth day falls on a state holiday
186 or Saturday or Sunday, then such report shall be published the next business day."

187

SECTION 8.

188 Said title is further amended by adding a new Code section to read as follows:

189 "42-1-11.5.

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

191 (1) 'Custodial authority' means the commissioner if a person is in physical custody at a
192 penal institution, the sheriff if a person is in physical custody at a county jail, the warden
193 if a person is in physical custody at county correctional institution, and the chief of police
194 if a person is in physical custody at a municipal detention facility.

195 (2) 'Immigration detainer notice' means documentation issued by the federal government
196 requesting that a custodial authority maintain temporary custody of an illegal alien as

197 such term is defined in Code Section 42-4-14, including a United States Department of
198 Homeland Security Form I-247 document or a similar successor form.

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

201 (1) Comply with, honor, and fulfill any request made in the immigration detainer notice;
202 and

203 (2) Inform the person identified in the immigration detainer notice that the person is
204 being held pursuant to such notice."

205 **SECTION 9.**

206 Said title is further amended by revising Code Section 42-4-14, relating to "illegal alien"
207 defined and determination of nationality and verification of lawful admission of person
208 confined in a jail facility, as follows:

209 "42-4-14.

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

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

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

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

220 ~~(c) When any foreign national is confined, for any period, in a county or municipal jail,~~
221 ~~a reasonable effort shall be made to verify that such foreign national has been lawfully~~
222 ~~admitted to the United States and if lawfully admitted, that such lawful status has not~~

223 ~~expired. If verification of lawful status cannot be made from documents in the possession~~
224 ~~of the foreign national, verification shall be made within 48 hours through a query to the~~
225 ~~Law Enforcement Support Center (LESC) of the United States Department of Homeland~~
226 ~~Security or other office or agency designated by the federal government. If the foreign~~
227 ~~national is determined to be an illegal alien, the keeper of the jail or other officer shall~~
228 ~~notify the United States Department of Homeland Security, or other office or agency~~
229 ~~designated for notification by the federal government.~~

230 (c) If a person to be admitted to a county jail or municipal detention facility claims to be
231 a consular officer or diplomat, the jailer shall attempt to obtain such person's identification
232 and, upon verification of such person's status as a consular officer or diplomat, provide for
233 his or her immediate release. If a person who claims to be a consular officer or diplomat
234 is unable to produce credentials which provide for verification of diplomatic status, a
235 person in a supervisory role at such jail or detention facility shall contact the United States
236 Department of State during normal business hours or the Command Center of the Office
237 of Security of the United States Department of State outside of normal business hours to
238 request verification of such person's status as a consular officer or of other diplomatic
239 status.

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

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

248 (B) A permanent resident alien card Form 551;

249 (C) A valid Nexus card;

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

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

255 (2) If a person fails to produce a document required by this subsection, or verification
256 of the authenticity of any such document is necessary, a person in a supervisory role at
257 the county jail or municipal detention facility shall contact the Law Enforcement Support
258 Center (LESC) of the United States Department of Homeland Security or the Atlanta
259 office of the United States Immigration and Customs Enforcement Division of the
260 Department of Homeland Security for a determination of the person's lawful presence.
261 If the LESC of the United States Department of Homeland Security responds to contact
262 pursuant to this paragraph with a request to detain an illegal alien, he or she shall not be
263 released within 48 hours of receipt of such request; provided, however, that if such person
264 was released prior to such request to detain, such fact shall be communicated to the LESC
265 of the United States Department of Homeland Security. Any response received pursuant
266 to this paragraph which indicates an illegal alien is confined in a county jail or municipal
267 detention facility shall be forwarded to the local United States Immigration and Customs
268 Enforcement Division of the Department of Homeland Security.

269 (3) No person shall be detained solely due to the inability to contact the LESC of the
270 United States Department of Homeland Security pursuant to the provisions of this
271 subsection.

272 (4) No person identified as an illegal alien by the LESC of the United States Department
273 of Homeland Security pursuant to this subsection shall be detained unless a request to
274 detain has been received pursuant to paragraph (2) of this subsection or the existence of
275 an arrest warrant issued by a federal judge or federal magistrate for such person has been
276 verified.

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

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

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

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

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

292 (2) A person convicted of a violation of this Code section shall be punished as for a
 293 misdemeanor. A person convicted of a second or subsequent violation of this Code
 294 section shall be punished as for a misdemeanor of a high and aggravated nature."

295 **SECTION 10.**

296 Said title is further amended by adding a new Code section to read as follows:

297 "42-4-16.

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

- 302 (1) The total number of inmates booked into the county jail or municipal detention
303 facility;
- 304 (2) The total number of inquiries made to the Law Enforcement Support Center (LESC)
305 of the United States Department of Homeland Security or any other federal agency
306 inquiring relating to the immigration status or prior arrests of foreign-born inmates;
- 307 (3) The total number of responses received for requests made by the county jail or
308 municipal detention facility pursuant to paragraph (2) of this subsection;
- 309 (4) The total number of responses as provided for in paragraph (3) of this subsection that
310 indicated a foreign-born inmate of the county jail or municipal detention facility is an
311 illegal alien as such term is defined in Code Section 42-4-14;
- 312 (5) The number of immigration detainers issued by the United States Immigration and
313 Customs Enforcement Division of the Department of Homeland Security for prisoners
314 in the county jail or municipal detention facility; and
- 315 (6) A sworn affidavit signed by the individual in a supervisory role at the county jail or
316 municipal detention facility verifying compliance with Code Section 42-4-14 and all
317 other applicable law.
- 318 (b) Any person who knowingly and willfully makes a false, fictitious, or fraudulent
319 statement of representation in a report required by this Code section shall be guilty of a
320 violation of Code Section 16-10-20."

321

SECTION 11.

322 Article 1 of Chapter 15 of Title 45 of the Official Code of Georgia Annotated, relating to
323 general provisions relative to the Attorney General, is amended by revising Code Section
324 45-15-10, relating to Attorney General authorized to prosecute for violations while dealing
325 with or for state, assistance by state court prosecuting officers, and commencement of civil
326 forfeiture proceedings, as follows:

327 "45-15-10.

328 The Attorney General, as the head of the Department of Law and the chief legal officer of
329 the state, is authorized to prosecute;

330 (1) Prosecute in the criminal courts of this state any official, person, firm, or corporation
331 which violates any criminal statute while dealing with or for the state or any official,
332 employee, department, agency, board, bureau, commission, institution, or appointee
333 thereof; ~~and the Attorney General is authorized to call~~

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

338 ~~The Attorney General shall be authorized to commence;~~

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

342 (4) Investigate and prosecute violations of Code Sections 36-80-23, 42-4-14, and
343 42-4-16; and

344 (5) Investigate failure to comply with Code Sections 35-1-17, 42-1-11.4, 42-1-11.5, and
345 50-36-4."

346 **SECTION 12.**

347 Chapter 36 of Title 50 of the Official Code of Georgia Annotated, relating to verification of
348 lawful presence within United States, is amended by revising Code Section 50-36-4, relating
349 to definitions and requiring agencies to submit annual immigration compliance reports, as
350 follows:

351 "50-36-4.

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

- 353 (1) 'Agency or political subdivision' means any department, agency, authority,
354 commission, or governmental entity of this state or any subdivision of this state.
- 355 (2) 'Annual reporting period' means from December 1 of the preceding year through
356 November 30 of the year in which the report is due.
- 357 (3) 'Contractor' shall have the same meaning as set forth in Code Section 13-10-90.
- 358 (4) 'Department' means the Department of Audits and Accounts.
- 359 (5) 'Physical performance of services' shall have the same meaning as set forth in Code
360 Section 13-10-90.
- 361 (6) 'Public employer' shall have the same meaning as set forth in Code Section 13-10-90.
- 362 (b) Each agency or political subdivision subject to any of the requirements provided in
363 Code Sections 13-10-91, 36-60-6, 36-80-23, and 50-36-1 shall submit an annual
364 immigration compliance report to the department by December 31 that includes the
365 information required under subsection (d) of this Code section for the annual reporting
366 period. If an agency or political subdivision is exempt from any, but not all, of the
367 provisions of subsection (d) of this Code section, it shall still be required to submit the
368 annual report but shall indicate in the report which requirements from which it is exempt.
- 369 (c) The department shall create an immigration compliance reporting system and shall
370 provide technical support for the submission of such reports. The department shall further
371 provide annual notification of such reports with submission instructions to all agencies and
372 political subdivisions subject to such requirements. The department shall be authorized to
373 implement policy as is needed to carry out the requirements of this subsection.
- 374 (d) The immigration compliance report provided for in subsection (b) of this Code section
375 shall contain the following:
- 376 (1) The agency or political subdivision's federal work authorization program verification
377 user number and date of authorization;
- 378 (2) The legal name, address, and federal work authorization program user number of
379 every contractor that has entered into a contract for the physical performance of services

380 with a public employer as required under Code Section 13-10-91 during the annual
381 reporting period;

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

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

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

393 (B) As used in this paragraph, the terms 'public benefit' and 'SAVE program' shall have
394 the same meanings as set forth in Code Section 50-36-1; and

395 (6) The agency or political subdivision's certificate of compliance with Code
396 Section 36-80-23; and

397 (7) Where applicable, the agency or political subdivision's certificate of compliance with
398 Code Sections 35-1-17, 42-4-14, 42-4-16, and 42-4-17.

399 (e) The department shall review all immigration compliance reports submitted pursuant
400 to this Code section and shall make the determination of compliance pursuant to this Code
401 section. In the event that the immigration compliance report submitted by an agency or
402 political subdivision is found to be deficient by the department, so long as a new
403 immigration compliance report is submitted with the prior deficiencies corrected and fully
404 complies with this Code section, such agency or political subdivision shall be deemed to
405 have satisfied the requirements of this Code section.

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

409 ~~(g) The department shall not find an agency or a political subdivision to be in violation of~~
410 ~~this Code."~~

411 **SECTION 13.**

412 Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to DNA sampling,
413 collection, and analysis, is amended by revising Code Section 35-3-160, relating to DNA
414 analysis in felony convictions and certain felony charges and performance of tests, as
415 follows:

416 "35-3-160.

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

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

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

423 (3) 'Division' means the Division of Forensic Sciences of the Georgia Bureau of
424 Investigation.

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

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

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

433 (C) Who has been convicted of a felony or misdemeanor and is subject to an
434 immigration detainer notice as such term is defined in Code Section 42-4-16.

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

439 (3) Paragraph (1) of this subsection shall not apply to any individual for a conviction for
440 a misdemeanor, to any individual who is charged with a misdemeanor and the sentence
441 for such misdemeanor is imposed pursuant to Article 3 of Chapter 8 of Title 42 regarding
442 first offenders, or because he or she has been charged with a misdemeanor.

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

449 **SECTION 14.**

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

452 **SECTION 15.**

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