House Bill 752

By: Representatives Powell of the  $32^{nd}$ , Rogers of the  $10^{th}$ , Rhodes of the  $120^{th}$ , Efstration of the  $104^{th}$ , and Jasperse of the  $11^{th}$ 

## A BILL TO BE ENTITLED AN ACT

1	To amend Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to
2	emergency management, so as to establish the homeland security division of the Georgia
3	Emergency Management and Homeland Security Agency; to provide for definitions; to
4	provide for the employment of peace officers by such division; to provide for the powers and
5	duties of such division; to revise the duties of the director of the Georgia Emergency
6	Management and Homeland Security Agency; to provide for immunities for officers or
7	agents employed by such division; to amend Code Section 16-11-130 of the Official Code
8	of Georgia Annotated, relating to exemptions from Code Sections 16-11-126 through
9	16-11-127.2, so as to authorize any officer or agent or retired officer or agent of such division
10	to carry a handgun on or off duty within this state with an exception; to amend Part 5 of
11	Article 8 of Chapter 2 of Title 47 of the Official Code of Georgia Annotated, relating to
12	certain law enforcement personnel, so as to provide for disability allowances for officers or
13	agents employed by such division; to amend Chapter 3 of Title 35 of the Official Code of
14	Georgia Annotated, relating to the Georgia Bureau of Investigation, so as to revise the duties
15	of the director of the Georgia Bureau of Investigation pertaining to the Georgia Information
16	Sharing and Analysis Center; to revise the duties of the Georgia Information Sharing and
17	Analysis Center; to provide for related matters; to repeal conflicting laws; and for other
18	purposes.

## BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 PART I
 21 SECTION 1-1.

- 22 Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency
- 23 management, is amended by revising Code Section 38-3-3, relating to definitions, as follows:
- 24 "38-3-3.

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25 As used in Articles 1 through 3 of this chapter, the term:

(1) 'Bioterrorism' means the intentional creation or use of any microorganism, virus, infectious substance, or any component thereof, whether naturally occurring or bioengineered, to cause death, illness, disease, or other biological malfunction in a human, animal, plant, or other living organism in order improperly or illegally to influence the conduct of government, to interfere with or disrupt commerce, or to intimidate or coerce a civilian population.

(2) 'Emergency management' means the preparation for the carrying out of all emergency

functions other than functions for which military forces are primarily responsible to prevent, minimize, and repair injury and damage resulting from emergencies, energy emergencies, disasters, or the imminent threat thereof, of manmade or natural origin caused by enemy attack, sabotage, acts of domestic or international terrorism, civil disturbance, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, infestation, explosion, riot or other hostile action, radiological action, or other causes. These functions include, without limitation, fire-fighting services; police services; emergency medical services; rescue; engineering; warning services; communications; defense from radiological, chemical, biological, and other special weapons to include weapons of mass destruction; evacuation of persons from stricken areas; emergency welfare services; consequence management functions to include victim services; emergency transportation; plant protection; temporary restoration of public utility services; and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions.

(2.1) 'Emergency Operations Command' means the unified command group comprising the director of emergency management and homeland security, the director of the Georgia Bureau of Investigation, the commissioner of public safety, the commissioner of natural resources, the commissioner of transportation, and the adjutant general that is responsible for coordinating the public safety response to natural disasters, homeland security activities, and other emergencies within the state.

(3) 'Energy emergency' means a condition of danger to the health, safety, welfare, or economic well-being of the citizens of this state arising out of a present or threatened shortage of usable energy resources; also any condition of substantial danger to the health, safety, or welfare of the citizens of this state resulting from the operation of any electrical power-generating facility, the transport of any energy resource by any means whatsoever, or the production, use, or disposal of any source material, special nuclear material, or by-product, as defined by the Atomic Energy Act of 1954, 68 Stat. 919, 42 U.S.C. Section 2011, et seq.; also any nuclear incident, as defined by the Atomic Energy

Act of 1954, occurring within or outside this state, substantially affecting the health,

- safety, or welfare of the citizens of this state.
- (4) 'Energy resources' means all forms of energy or power including, without limitation,
- oil, gasoline, and other petroleum products; natural or synthetic gas; electricity in all
- forms and from all sources; and other fuels of any description, except wood.
- 68 (4.1) 'Homeland security activity' means any activity related to the prevention or
- discovery of, response to, or recovery from:
- 70 (A) A terrorist attack;
- 71 (B) A hostile military or paramilitary action; or
- 72 (C) An extraordinary law enforcement emergency.
- 73 (4.2) 'Homeland security division' means a division within the Georgia Emergency
- Management and Homeland Security Agency comprising officers or agents who are
- 75 certified as peace officers by the Georgia Peace Officer Standards and Training Council
- and whose full time is dedicated to the preservation of public order and homeland
- security activity.
- 78 (4.3) 'Pandemic influenza emergency' means the declaration by the World Health
- Organization of at least a Phase 5 Pandemic Alert for influenza occurring in the United
- States or the State of Georgia or the declaration by the Centers for Disease Control and
- Prevention of at least a Category 2 Pandemic Severity Index for influenza occurring in
- the United States or the State of Georgia.
- 83 (5) 'Political subdivision' means:
- 84 (A) Cities having a population of over 1,000;
- 85 (B) Cities having a population of less than 1,000 in which the Governor has established
- a local organization; and
- 87 (C) Counties.
- 88 (6) 'Public health emergency' means the occurrence or imminent threat of an illness or
- health condition that is reasonably believed to be caused by bioterrorism or the
- appearance of a novel or previously controlled or eradicated infectious agent or biological
- toxin and poses a high probability of any of the following harms:
- 92 (A) A large number of deaths in the affected population;
- 93 (B) A large number of serious or long-term disabilities in the affected population; or
- 94 (C) Widespread exposure to an infectious or toxic agent that poses a significant risk
- of substantial future harm to a large number of people in the affected population.
- 96 (7) 'State of emergency' means the condition declared by the Governor when, in his or
- 97 <u>her</u> judgment, the threat or actual occurrence of a disaster, emergency, or energy
- 98 emergency in any part of the state is of sufficient severity and magnitude to warrant
- 99 extraordinary assistance by the state to supplement the efforts and available resources of

the several localities and relief organizations in preventing or alleviating the damage, loss, hardship, or suffering threatened or caused thereby."

102 **SECTION 1-2.** 

Said chapter is further amended by revising Code Section 38-3-20, relating to Georgia

- 104 Emergency Management and Homeland Security Agency created, director, staff, offices,
- director's duties, and disaster coordinator, as follows:
- 106 "38-3-20.
- 107 (a) There is established the Georgia Emergency Management and Homeland Security
- Agency with a director of emergency management and homeland security who shall be the
- head thereof. The Georgia Emergency Management and Homeland Security Agency shall
- be assigned to the Office of Planning and Budget for administrative purposes only as
- provided in Code Section 50-4-3.
- 112 (b) The Governor shall appoint the director of emergency management and homeland
- security. He or she shall hold office at the pleasure of the Governor, who shall fix his or
- her compensation. The director of emergency management and homeland security shall
- hold no other state office.
- 116 (c) The director may employ such professional, technical, clerical, stenographic, and other
- personnel, may fix their compensation, and may make such expenditures within the
- appropriation therefor, or from other funds made available for purposes of emergency
- management and homeland security, as may be necessary to carry out the purposes of
- 120 Article 9 of Chapter 3 of Title 35; Article 1, this article, and Article 3 of this chapter; and
- the duties of the agency and the director described in Part 4 of Article 2 of Chapter 5 of
- 122 Title 46, the 'Georgia Emergency Telephone Number 9-1-1 Service Act of 1977,' as
- amended.
- 124 (d) The director and other personnel of the Georgia Emergency Management and
- Homeland Security Agency shall be provided with appropriate office space, furniture,
- equipment, supplies, stationery, and printing in the same manner as provided for personnel
- of other state agencies.
- (e) The director, subject to the direction and control of the Governor, shall:
- 129 (1) Be the executive head of the Georgia Emergency Management and Homeland
- Security Agency and shall be responsible to the Governor for carrying out the program
- for emergency management and homeland security in this state;
- 132 (2) Serve as the central authority reporting to the Governor on all matters relating to
- homeland security;
- 134 (3) Have command and control authority over all operational areas involving imminent
- or current terrorist activity within this state, including, but not limited to, <u>leading and</u>

directing the actions of the Homeland Security Task Force and the Homeland Security

Central Command when activated by the Governor Emergency Operations Command;

Coordinate the activities of all organizations for emergency management and

- homeland security within the state;

  140 (5) Maintain liaison with and cooperate with emergency management agencies and
- organizations of other states and of the federal government;
- 142 (6) Oversee all Through risk and threat assessments, and coordinate all plans for timely
- and complete responses through a network of state, local, and federal organizations,
- including, but not limited to, the coordination of efficient and timely flow of information;
- 145 (7) Be responsible for crisis and consequence management planning, including, but not
- limited to, measures to identify, acquire, and plan the use of resources needed to
- anticipate, prevent, or resolve a threat or act of terrorism;
- 148 (8) Coordinate and review all activities involving homeland security within any agency,
- authority, or entity of this state, including, but not limited to, oversight of homeland
- security activities found within the Department of Public Safety, the Georgia Bureau of
- 151 Investigation, the Georgia National Guard, the Department of Natural Resources, the
- Department of Community Health, and the Department of Public Health;
- 153 (9) Evaluate information developed by the criminal justice community in regard to
- threats or potential threats of terrorism; and
- 155 (10) Serve as this state's security manager for the purpose of identifying and processing
- state personnel for security clearances through the United States Department of
- 157 <u>Homeland Security; and</u>
- 158 (11) Have such additional authority, duties, and responsibilities authorized by Article 1,
- this article, and Article 3 of this chapter as may be prescribed by the Governor and such
- additional authority, duties, and responsibilities as described in Article 9 of Chapter 3 of
- Title 35 and Part 4 of Article 2 of Chapter 5 of Title 46, the 'Georgia Emergency
- Telephone Number 9-1-1 Service Act of 1977,' as amended.
- 163 (f) The director of emergency management and homeland security shall also be the
- disaster coordinator and shall act for the Governor when requested to do so."
- 165 **SECTION 1-3.**
- Said chapter is further amended by adding two new Code sections to read as follows:
- 167 "<u>38-3-20.1.</u>
- 168 (a) There is established the homeland security division. The director of emergency
- management and homeland security shall have the power to appoint such a number of
- officers or agents, who shall be peace officers, as may be necessary to meet the needs of
- the Georgia Emergency Management and Homeland Security Agency. The homeland

security division shall have jurisdiction throughout this state with such duties and powers

- as are prescribed by law.
- (b) It shall be the duty of the homeland security division to:
- 175 (1) Focus on homeland security activity throughout this state in conjunction and
- cooperation with federal, state, and local law enforcement agencies and to safeguard the
- lives and property of the public;
- 178 (2) Detect, deter, and investigate violations of the criminal laws of this state, any other
- state, or the United States in relation to homeland security activity within this state and
- shall have authority to apprehend and arrest those persons who violate such criminal
- 181 <u>laws;</u>
- 182 (3) Serve and execute warrants in relation to any homeland security activity;
- (4) Apprehend and arrest any person who is a fugitive from justice in relation to any
- homeland security activity;
- 185 (5) In conjunction and cooperation with federal, state, and local law enforcement
- agencies, identify and investigate violations of Article 6 of Chapter 11 of Title 16;
- 187 (6) Perform agency duties and responsibilities outlined in Article 27 of Chapter 2 of
- 188 <u>Title 20, relating to loitering at or disrupting schools;</u>
- 189 (7) Train local law enforcement, other state agency, and private sector partners in
- 190 <u>homeland security activity; and</u>
- 191 (8) Aid public and private sector critical infrastructure partners in conducting security
- and vulnerability assessments.
- (c) The director may, and if requested by the Governor shall, authorize and direct the
- 194 <u>homeland security division to cooperate with and render assistance to any law enforcement</u>
- agency of this state or of any municipality, county, or other political subdivision thereof
- in any criminal case, in the prevention or detection of violations of any law, or in the
- apprehension or arrest of persons who violate the criminal laws of this state, any other
- state, or the United States upon, in the case of municipalities, counties, or other political
- subdivisions, a request by the governing authority or chief law enforcement officer of any
- such municipality, county, or other political subdivision, by the sheriff of any county, or
- by a judge of the superior court of any county.
- 202 (d) The homeland security division shall cooperate with all other law enforcement
- agencies of this state or of any municipality, county, or other political subdivision thereof
- 204 <u>in enforcing the laws of this state, any other state, or the United States in relation to</u>
- 205 <u>homeland security activity.</u>
- 206 (e) Officers or agents of the homeland security division shall carry firearms while
- 207 <u>performing their duties.</u>

208 (f) In no case where the homeland security division is exercising any power or performing any duty authorized by this Code section shall it usurp any of the duties or authority of any 209 210 sheriff of any county or any chief of police of any municipal or county police force. 211 38-3-20.2. 212 All immunities for peace officers provided for under Title 35 or any other law shall apply 213 to the officers or agents of the homeland security division." 214 **SECTION 1-4.** Said chapter is further amended by repealing Code Section 38-3-22.2, relating to 215 establishment of the Airport Antiterrorism Training Committee and annual training, in its 216 217 entirety. 218 **PART II** 219 **SECTION 2-1.** Code Section 16-11-130 of the Official Code of Georgia Annotated, relating to exemptions 220 221 from Code Sections 16-11-126 through 16-11-127.2, is amended by revising subsection (c) 222 as follows: "(c)(1) As used in this subsection, the term 'courthouse' means a building or annex 223 224 occupied by judicial courts and containing rooms in which judicial proceedings are held. 225 (2) Except to the extent provided for in subsection (c.1) of this Code section, Code Sections 16-11-126 through 16-11-127.2 shall not apply to or affect any: 226 (A) Sheriff, retired sheriff, deputy sheriff, or retired deputy sheriff if such retired 227 228 sheriff or deputy sheriff is eligible to receive or is receiving benefits under the Peace 229 Officers' Annuity and Benefit Fund provided under Chapter 17 of Title 47, the Sheriffs' 230 Retirement Fund of Georgia provided under Chapter 16 of Title 47, or any other public 231 retirement system established under the laws of this state for service as a law 232 enforcement officer; (B) Member of the Georgia State Patrol, agent of the Georgia Bureau of Investigation, 233 retired member of the Georgia State Patrol, or retired agent of the Georgia Bureau of 234 235 Investigation if such retired member or agent is receiving benefits under the Employees' Retirement System of Georgia; 236 (B.1) Officer or agent of the homeland security division of the Georgia Emergency 237 Management and Homeland Security Agency or retired officer or agent of the 238 239 homeland security division of the Georgia Emergency Management and Homeland

Security Agency if such retired officer or agent is receiving benefits under the Employees' Retirement System of Georgia;

- (C) Full-time law enforcement chief executive engaging in the management of a county, municipal, state, state authority, or federal law enforcement agency in the State of Georgia, including any college or university law enforcement chief executive who is registered or certified by the Georgia Peace Officer Standards and Training Council; or retired law enforcement chief executive who formerly managed a county, municipal, state, state authority, or federal law enforcement agency in the State of Georgia, including any college or university law enforcement chief executive who was registered or certified at the time of his or her retirement by the Georgia Peace Officer Standards and Training Council, if such retired law enforcement chief executive is receiving benefits under the Peace Officers' Annuity and Benefit Fund provided under Chapter 17 of Title 47 or is retired in good standing and receiving benefits from a county, municipal, State of Georgia, state authority, or federal retirement system;
- (D) Police officer of any county, municipal, state, state authority, or federal law enforcement agency in the State of Georgia, including any college or university police officer who is registered or certified by the Georgia Peace Officer Standards and Training Council, or retired police officer of any county, municipal, state, state authority, or federal law enforcement agency in the State of Georgia, including any college or university police officer who was registered or certified at the time of his or her retirement by the Georgia Peace Officer Standards and Training Council, if such retired police officer is receiving benefits under the Peace Officers' Annuity and Benefit Fund provided under Chapter 17 of Title 47 or is retired in good standing and receiving benefits from a county, municipal, State of Georgia, state authority, or federal retirement system; or
- (E) Person who is a citizen of this state and:
  - (i) Has retired with at least ten years of aggregate service as a law enforcement officer with powers of arrest under the laws of any state of the United States or of the United States;
  - (ii) Separated from service in good standing, as determined by criteria established by the Georgia Peace Officer Standards and Training Council, from employment with his or her most recent law enforcement agency; and
  - (iii) Possesses on his or her person an identification card for retired law enforcement officers as issued by the Georgia Peace Officer Standards and Training Council; provided, however, that such person meets the standards for the issuance of such card as provided for by the council, including, but not limited to, maintenance of qualification in firearms training.

In addition, any such sheriff, retired sheriff, deputy sheriff, retired deputy sheriff, member or retired member of the Georgia State Patrol, agent or retired agent of the Georgia Bureau of Investigation, officer or retired officer of the Department of Natural Resources, officer or agent or retired officer or agent of the homeland security division of the Georgia Emergency Management and Homeland Security Agency, active or retired law enforcement chief executive, person who is a retired law enforcement officer as provided for in paragraph (2) of this subsection, or other law enforcement officer referred to in this subsection shall be authorized to carry a handgun on or off duty anywhere within this state, including, but not limited to, in a courthouse except to the extent provided for in subsection (c.1) of this Code section, and Code Sections 16-11-126 through 16-11-127.2 shall not apply to the carrying of such firearms."

288 **SECTION 2-2.** 

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Part 5 of Article 8 of Chapter 2 of Title 47 of the Official Code of Georgia Annotated, relating to certain law enforcement personnel, is amended by revising subsection (b) of Code Section 47-2-221, relating to disability allowances payable to personnel for certain disabilities arising in the line of duty, as follows:

"(b)(1) Notwithstanding the disability allowance provided for in Code Section 47-2-123, any employee of the Department of Natural Resources appointed as a deputy conservation ranger under Code Section 27-1-17, any parole officer employed by the State Board of Pardons and Paroles, any probation officer employed by the Department of Corrections, any officer or agent of the homeland security division of the Georgia Emergency Management and Homeland Security Agency, and any community supervision officer employed by the Department of Community Supervision who, while a contributing member of this retirement system and upon becoming permanently disabled due to an act of external violence or injury incurred in the line of law enforcement duty, becomes eligible for disability retirement allowances shall, after a medical examination and upon certification by the medical board that such member is, in their opinion, permanently disabled, be entitled to a monthly allowance as computed on the member's life expectancy without option. Such monthly allowance as shall be payable to the member only, during his or her life or length of disability, shall not exceed 80 percent of the service allowance that would have been payable to the member had he or she accumulated not more than 30 years of creditable service and had retired at age 65. Such allowance shall be computed on the basis of the member's monthly earnable compensation for the month in which his or her permanent disability occurred. Such permanent disability retirement shall apply regardless of the length of service of any such member; and such member shall be deemed to have acquired 30 or more years of

creditable service. In addition, a member so disabled in the line of law enforcement duty shall receive a monthly supplemental benefit which shall be in the amount of \$5.00 per month for each year of creditable service as an employee of the Department of Natural Resources who has been appointed as a deputy conservation ranger under Code Section 27-1-17, parole officer of the State Board of Pardons and Paroles, probation officer of the Department of Corrections, officer or agent of the homeland security division of the Georgia Emergency Management and Homeland Security Agency, or any community supervision officer employed by the Department of Community Supervision. Such additional monthly supplemental benefit shall in no event exceed \$150.00 per month. (2) In lieu of the foregoing, any member so disabled in the line of law enforcement duty shall be entitled to receive a minimum monthly disability retirement benefit equal to 2 percent of his or her monthly earnable compensation for the month in which his or her permanent disability occurred for each year of creditable service determined as though he or she had continued in service as a deputy conservation ranger, probation officer, parole officer, officer or agent of the homeland security division of the Georgia Emergency Management and Homeland Security Agency, or a community supervision officer until his or her mandatory retirement age."

330 PART III

**SECTION 3-1.** 

Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia
Bureau of Investigation, is amended by revising Article 9, relating to the Georgia

334 Information Sharing and Analysis Center, as follows:

335 "ARTICLE 9

336 35-3-200.

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337 As used in this article, the term:

- (1) 'Center' means the Georgia Information Sharing and Analysis Center.
- 339 (2) 'Fusion center' means collaborative effort which combines resources, expertise,
- intelligence, and other information from various agencies of state and local governments with the goal of maximizing the ability of this state to detect, prevent, and respond to
- criminal activities or to otherwise engage in homeland security activities.
- 343 (3) 'Homeland security activity' means any activity related to the prevention or discovery
- of, response to, or recovery from:
- 345 (A) A terrorist attack;

- 346 (B) A hostile military or paramilitary action; or
- 347 (C) An extraordinary law enforcement emergency.
- 348 35-3-201.
- There is established the Georgia Information Sharing and Analysis Center as a distinct
- 350 <u>division</u> within the Georgia Bureau of Investigation. The center shall be a fusion center
- maintaining criminal intelligence and terrorism analytical components. The officer or
- agent charged with operating the center shall report directly to the director.
- 353 35-3-202.
- 354 (a) Responsibility for the development, maintenance, and operations of the center shall be
- 355 vested in the director.
- 356 (b) The director shall appoint and maintain the necessary professional and support staff to
- 357 enable the center to effectively and efficiently carry out its duties and responsibilities under
- 358 this article Reserved.
- 359 35-3-203.
- 360 (a) The director through the center shall share and provide homeland security activity
- information to the director of emergency management and homeland security, including,
- but not limited to, threats, warnings, and developing situations, when an investigation
- 363 reveals conduct of a terroristic nature or in material support of terroristic activities,
- recruitment of terrorists, or information on the activities of known terrorist organizations.
- 365 (b) The center shall liaise with the bureau, the Federal Bureau of Investigation, Joint
- 366 Terrorism Task Force, United States Department of Homeland Security, and other local,
- state, and federal intelligence and law enforcement officials for purposes of carrying out
- its duties and responsibilities under this article.
- 369 (c) The center shall allow unrestricted access to secure communications equipment to the
- 370 director of emergency management and homeland security and his or her representatives
- 371 who possess the appropriate federally approved security clearances for the dissemination
- 372 of homeland security activity information by the United States Department of Homeland
- 373 Security.
- 374 (d) The director of emergency management and homeland security shall serve as this
- 375 state's security manager for the purpose of identifying and processing state personnel for
- 376 security clearances through the United States Department of Homeland Security.

377 35-3-204.

(a) Membership in the center shall consist of the director, the director of emergency management and homeland security, the commissioner of public safety, the commissioner of natural resources, the commissioner of corrections, the state fire marshal, the Attorney General, the adjutant general, and state and local fire service, law enforcement, homeland security, emergency management, corrections, and other appropriate agencies and disciplines as determined by the director of emergency management and homeland security in consultation with the director. Such members shall may assign or make available their analysts or other personnel to the center as such need is determined by the director of emergency management and homeland security.

(b) The director of emergency management and homeland security shall may maintain Georgia Emergency Management and Homeland Security Agency analysts in the center as needed as determined by the director of emergency management and homeland security. Such analysts assigned to the center who are funded by or employees of the Georgia Emergency Management and Homeland Security Agency shall focus on homeland security activity."

**PART IV**394 **SECTION 4-1.** 

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