

Senate Bill 559

By: Senators Tillery of the 19th, Hatchett of the 50th, Strickland of the 17th, Robertson of the 29th, Brass of the 28th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 80 of Title 36 of the Official Code of Georgia Annotated, relating to  
2 general provisions applicable to counties, municipal corporations, and other governmental  
3 entities, so as to waive sovereign and governmental immunities for local governments and  
4 their officials and employees for violation on the prohibition on immigration sanctuary  
5 policies; to amend Title 42 of the Official Code of Georgia Annotated, relating to penal  
6 institutions, in Article 1 of Chapter 4, relating to general provisions of jails, so as to require  
7 sheriffs, jailers, and deputies to honor immigration detainer requests issued by the  
8 Department of Homeland Security; to provide a definition; to provide for related matters; to  
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 80 of Title 36 of the Official Code of Georgia Annotated, relating to general  
13 provisions applicable to counties, municipal corporations, and other governmental entities,  
14 is amended by revising Code Section 36-80-23, relating to prohibition on immigration  
15 sanctuary policies by local governmental entities, and certification of compliance, as follows:

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16 "36-80-23.

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

18 (1) 'Federal officials or law enforcement officers' means any person employed by the  
19 United States government for the purpose of enforcing or regulating federal immigration  
20 laws and any peace officer certified by the Georgia Peace Officer Standards and Training  
21 Council where such federal official or peace officer is acting within the scope of his or  
22 her employment for the purpose of enforcing federal immigration laws or preserving  
23 homeland security.

24 (2) 'Immigration status' means the legality or illegality of an individual's presence in the  
25 United States as determined by federal law.

26 (3) 'Immigration status information' means any information, not including any  
27 information required by law to be kept confidential but otherwise including but not  
28 limited to any statement, document, computer generated data, recording, or photograph,  
29 which is relevant to immigration status or the identity or location of an individual who  
30 is reasonably believed to be illegally residing within the United States or who is  
31 reasonably believed to be involved in domestic terrorism as that term is defined in Code  
32 Section 16-11-220 or a terroristic act as that term is defined by Code Section 35-3-62.

33 (4) 'Local governing body' means any political subdivision of this state, including any  
34 county, consolidated government, municipality, authority, school district, commission,  
35 board, or any other local public body corporate, governmental unit, or political  
36 subdivision.

37 (5) 'Local official or employee' means any elected or appointed official, supervisor or  
38 managerial employee, contractor, agent, or certified peace officer acting on behalf of or  
39 in conjunction with a local governing body.

40 (6) 'Sanctuary policy' means any regulation, rule, policy, or practice adopted by a local  
41 governing body which prohibits or restricts local officials or employees from  
42 communicating or cooperating with federal officials or law enforcement officers with

43 regard to reporting immigration status information while such local official or employee  
44 is acting within the scope of his or her official duties.

45 (b) No local governing body, whether acting through its governing body or by an initiative,  
46 referendum, or any other process, shall enact, adopt, implement, or enforce any sanctuary  
47 policy.

48 (c) Any local governing body that acts in violation of this Code section shall be subject to  
49 the withholding of state funding or state administered federal funding other than funds to  
50 provide services specified in subsection (d) of Code Section 50-36-1.

51 (d) As a condition of funding, the Department of Community Affairs, the Department of  
52 Transportation, or any other state agency that provides funding to local governing bodies  
53 shall require certification pursuant to Code Section 50-36-4 as proof of compliance with  
54 this Code section.

55 (e) In the event that a local governing body acts in violation of this Code section, the  
56 sovereign immunity of such local governing bodies and the governmental immunity of all  
57 local officials and employees of such local governing body is waived in all matters arising  
58 from or resulting in the violation of this Code section."

59 **SECTION 2.**

60 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended  
61 in Article 1 of Chapter 4, relating to general provisions of jails, by adding a new Code  
62 section to read as follows:

63 "42-4-16.

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

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

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

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

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

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

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

82 (d) In the event that a sheriff, jailer, or deputy acts in violation of this Code section, the  
83 sovereign and other governmental immunities of such sheriff, jailer, or deputy is waived  
84 in all matters arising from or resulting in the violation of this Code section."

85 **SECTION 3.**

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