

House Bill 1102

By: Representatives Momtahan of the 17th, Smith of the 18th, Leverett of the 123rd, Daniel of the 117th, Jasperse of the 11th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 13 of Title 17 of the Official Code of Georgia Annotated, relating to
2 criminal extradition, so as to provide for a determination by the Department of Public Safety
3 of whether persons with a terminated or completed sentence or term of sentence near
4 completion for a conviction are present in the United States illegally; to provide for reporting
5 of such persons to the Attorney General; to require the Attorney General to petition for a writ
6 to transfer such persons to a sanctuary state; to provide for conditions, procedures, and
7 limitations upon issuance of such writs; to provide for consent to a transfer by such persons;
8 to require transfer of such persons after issuance of a writ of transfer to a sanctuary state; to
9 provide for definitions; to provide for construction; to provide for related matters; to provide
10 for a short title; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 SECTION 1.

13 This Act shall be known and may be cited as the "Sanctuary State Deportation Act."

38 to the Attorney General. No later than 30 days from receipt of such list, the Attorney
39 General shall file a complaint under oath before a judge of any court of record in this state
40 for each person on such list that sets forth the crime for which such person was sentenced,
41 the assertion that the such person is present in the United States illegally, and a request for
42 issuance of a writ of transfer to a sanctuary state.

43 (c) Each person for whom a request for issuance of a writ of transfer to a sanctuary state
44 has been made pursuant to subsection (b) of this Code section shall be brought before the
45 court and informed of such request. A writ of transfer to a sanctuary state may be issued
46 upon a finding that such transfer is in the best interest of the health and well-being of such
47 person in relation to public safety; provided, however, that no such writ shall be issued
48 when such person has any pending criminal charges or has a sentence pending for a
49 criminal conviction in this state. If such person contests the issuance of a writ of transfer
50 to a sanctuary state, he or she shall be provided with an opportunity to apply for a writ of
51 habeas corpus. When a writ of habeas corpus is applied for, notice thereof, and of the time
52 and place of hearing thereon, shall be given to the Attorney General. Any person brought
53 before the court pursuant to this subsection may consent to a writ of transfer to a sanctuary
54 state by executing or subscribing, in the presence of the judge, a writing which states he or
55 she consents to a transfer to a sanctuary state.

56 (d) If and when a writ for transfer to a sanctuary state has been issued pursuant to this
57 Code section, it shall be forwarded to the office of the Governor. Upon the issuance of a
58 writ of transfer for a person, the judge shall direct the department to immediately transfer
59 any such person with a completed or terminated sentence or to transfer any such person
60 upon completion of his or her sentence to a sanctuary state.

61 17-13-62.

62 (a) Nothing in this article shall constitute a waiver by this state of its right, power, or
63 privilege to try a person transferred to a sanctuary state for crimes committed within this

64 state or of its right, power, or privilege to regain custody of the person by extradition
65 proceedings or otherwise for the purpose of trial, sentence, or punishment for any crime
66 committed within this state; nor shall any proceedings had under this article that result in,
67 or fail to result in, transfer to a sanctuary state be deemed a waiver by this state of any of
68 its rights, privileges, or jurisdiction in any way whatsoever.

69 (b) Nothing in this article shall be considered a banishment from the entirety of this state
70 or prohibit a person transferred upon issuance of a writ of transfer to a sanctuary state from
71 lawfully returning to this state.

72 17-13-63.

73 Any lawful actions taken pursuant to this article to transfer offenders illegally present in
74 the United States shall not be construed as human trafficking in violation of Code Section
75 16-5-46, kidnapping in violation of Code Section 16-5-40, or false imprisonment in
76 violation of Code Section 16-5-41."

77 **SECTION 3.**

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