

House Bill 1415

By: Representatives Gaines of the 120th, Wiedower of the 121st, Petrea of the 166th, Rhodes of the 124th, and Hong of the 103rd

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 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, in Article 1
8 of Chapter 4, relating to general provisions of jails, so as to require sheriffs, jailers, and
9 deputies to honor immigration detainer requests issued by the Department of Homeland
10 Security; to provide a definition; to provide for related matters; to repeal conflicting laws;
11 and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Chapter 1 of Title 35 of the Official Code of Georgia Annotated, relating to general
15 provisions for law enforcement officers and agencies, is amended by revising Code

16 Section 35-1-17, relating to local law enforcement agencies to enter into agreements with
17 federal agencies for the enforcement of immigration laws, as follows:

18 "35-1-17.

19 (a) **Legislative intent.** It is the intent of the General Assembly to ~~encourage~~ require
20 Georgia law enforcement officials to work in conjunction with federal immigration
21 authorities and to utilize all resources made available by the federal government to assist
22 state and local law enforcement officers in the enforcement of the immigration laws of this
23 state and of the United States.

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

25 (1) To the extent authorized by federal law, state and local government employees,
26 including law enforcement officers and prosecuting attorneys, shall ~~be authorized to~~ send,
27 receive, and maintain information relating to the immigration status of any individual as
28 reasonably needed for public safety purposes. Except as provided by federal law, such
29 employees shall not be prohibited from receiving or maintaining information relating to
30 the immigration status of any individual or sending or exchanging such information with
31 other federal, state, or local governmental entities or employees for official public safety
32 purposes;:

33 (2) ~~State and local~~ Local agencies shall be required to apply for, and such agencies as
34 well as state agencies are authorized to enter into memorandums of understanding and
35 agreements with the United States Department of Justice, the Department of Homeland
36 Security, or any other federal agency for the purpose of enforcing federal immigration
37 and customs laws and the detention, removal, and investigation of illegal aliens and the
38 immigration status of any person in this state. A peace officer acting within the scope of
39 his or her authority under any such memorandum of understanding, agreement, or other
40 authorization from the federal government shall have the power to arrest, with probable
41 cause, any person suspected of being an illegal alien;:

42 (3) Except as provided by federal law, no state or local agency or department shall be
43 prohibited from utilizing available federal resources, including data bases, equipment,
44 grant funds, training, or participation in incentive programs for any public safety purpose
45 related to the enforcement of state and federal immigration laws; and

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

50 (c) **Authority to transport illegal aliens.** If a state or local law enforcement officer has
51 verification that a person is an illegal alien, then such officer shall be authorized to securely
52 transport such illegal alien to a federal facility in this state or to any other temporary point
53 of detention and to reasonably detain such illegal alien when authorized by federal law.
54 Nothing in this Code section shall be construed to hinder or prevent a peace officer or law
55 enforcement agency from arresting or detaining any criminal suspect on other criminal
56 charges.

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

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

64 (f) Any law enforcement agency of a local governing body that acts in violation of this
65 Code section shall be subject to the withholding of state funding or state administered
66 federal funding other than funds to provide services specified in subsection (d) of Code
67 Section 50-36-1. As a condition of funding, the Department of Community Affairs, the
68 Department of Transportation, or any other state agency that provides funding to local

69 governing bodies shall require certification pursuant to Code Section 50-36-4 as proof of
70 compliance with this Code section."

71 **SECTION 2.**

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

75 "42-4-16.

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

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

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

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

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

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

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

94

SECTION 3.

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