



## **Overview of Title 35/42 Compliance and Reporting Requirements**

### **Important Legal References**

Per O.C.G.A. §35-1-17, it is the intent of the General Assembly to promote compliance with state law related to deterring the presence of criminal illegal aliens and require Georgia law enforcement officials to work in conjunction with federal immigration authorities to utilize all resources made available by the federal government to assist state and local law enforcement officers in the enforcement of the laws of this state and the United States.

O.C.G.A. §35-1-17 also authorizes state and local law enforcement agencies to enter into memorandums of agreement with the United States Department of Justice, the Department of Homeland Security, or any other federal agency for the purpose of enforcing federal immigration laws, including 287 (g) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 or a similar federal program.

O.C.G.A. §35-1-17 further authorizes state and local law enforcement agencies to securely transport illegal aliens to federal facilities when authorized by a federal immigration detainer or federal arrest warrant.

O.C.G.A. §42-1-11.5 requires a 'custodial authority' who has custody of a person who is subject to an immigration detainer notice shall:

- 1) Comply with, honor, and fulfill any request made in the immigration detainer notice; and
- 2) Inform the person identified in the immigration detainer notice that the person is being held pursuant to such notice.

O.C.G.A. §42-4-14 requires officials of jails or detention centers to make a reasonable effort within 48 hours of a person's arrival, to determine the nationality of the person and to confirm that they are not an illegal alien.

O.C.G.A. §42-1-11.4 requires the Department of Corrections to publish a report on its website of the aggregate data on the immigration status, offenses, and home countries of inmates who are confined under the authority of the Department of Corrections who are not citizens of the US and to whom the US Immigration and Customs Enforcement Division of the DHS has issued immigration detainer notices. This report must be posted quarterly beginning October 1, 2024.

O.C.G.A. §50-36-4 (b) requires each agency, sheriff's office, law enforcement agency, or political subdivision subject to submit an annual immigration compliance report to the department by December 31 that includes a certification of compliance with the laws noted above.

### **Who Must Submit a Certification Relating to Title 35 and Title 42 Laws?**

Any entity type that could possibly have law enforcement will be required to access this new section of the report and answer two initial questions:

- 1) Does your entity have a police department or have law enforcement personnel under your jurisdiction?
- 2) Does your entity operate a jail or detention center?

The tile on your home page will indicate whether a response is needed or not required.

If you are required to respond to the initial questions and you answer "No" to both questions, no further responses will be needed, and you will be directed to confirm your report.

If you answer "Yes" to one or both questions, you will be directed to answer additional questions relating to Title 35 and Title 42 compliance requirements.

### **The Report**

Reports are to be submitted online through the Department of Audits and Accounts Immigration and Reform Act Collection System. All persons completing the report must have an account. If you do not have an account, you may request credentials at the log-in page of the collection system. To access the Department of Audits and Accounts Immigration and Reform Act collection system click the following link [Georgia Department of Audits and Accounts Collection System](#).

For guidance on accessing, completing, and submitting the report, please review the "Guidelines for Completing the Immigration Compliance Report" document which can be found in the resources section of the Department of Audits and Accounts website. To access this resource page, click the following link [Immigration Resource Page - DOAA](#).

The annual report is due to the Department of Audits and Accounts by December 31st of each year.

### **Required Documentation**

For entities that are subject to compliance requirements of O.C.G.A. §35-1-17 and are required to certify compliance in accordance with O.C.G.A. §50-36-4, as a condition of funding to a local governing body, the Department of Community Affairs, the Department of Transportation, or any other state agency that provides funding to local governing bodies shall require entities to provide proof of compliance with this Code Section.

Once an entity has completed all required sections of the report, an e-mail will be automatically generated from the system and sent to the entity. This email will notify all persons with login credentials that all sections of the report have been completed. We encourage you to retain this email as proof of compliance, which may be requested from grantor agencies.

### **Penalties for Noncompliance**

O.C.G.A. §50-36-4 requires all public entities to submit their required reports no later than December 31<sup>st</sup> of each year.

According to O.C.G.A. §35-1-17 (f) any entity that violates this referenced Code Section shall be subject to the withholding of state funding or state administered federal funding other than funds for the purpose of providing those services specified in subsection (d) of Code Section 50-36-1.

According to O.C.G.A. 42-4-14 (h), it is unlawful for any jailer to knowingly and willfully violate the provisions of the Code Section which requires entities to make a reasonable effort within 48 hours of a person's confinement to determine their nationality and to verify they are not an illegal alien. Any person convicted of

a violation of O.C.G.A. 42-4-14 shall be punished as a misdemeanor. Subsequent convictions for such violations shall be punished as a misdemeanor of a high and aggravated nature.

**Do you need assistance?**

The Department of Audits and Accounts' website includes resources to assist you in complying with the immigration laws and submitting your report. You can access these resources on our immigration resources page at the following link [Immigration - DOAA](#).

If you have questions relating to immigration compliance and/or reporting, please contact [immhelp@audits.ga.gov](mailto:immhelp@audits.ga.gov).