



September 4, 2024

TO: Entities Required to Submit Annual Immigration Reports to DOAA

FROM: Jackie Neubert, Deputy Director *JEN*

SUBJECT: Changes to the 2024 Reporting Requirements

During the 2024 session of the General Assembly, the Legislature enacted House Bill 1105, the “Georgia Criminal Alien Track and Report Act of 2024.” This bill enacts several new requirements for entities with law enforcement personnel and entities that operate jails or detention centers. Click [Georgia General Assembly - HB 1105 \(ga.gov\)](https://www.ga.gov/legislation/2024/001105) to access a copy of the bill. These new requirements are in addition to the reporting requirements that currently exist.

This legislation also requires entities to certify their compliance with the new provisions as part of the annual immigration compliance reporting process. Entities that operate units with law enforcement personnel will be required to report on their compliance with these new provisions.

**What are the new reporting requirements?**

Specific to HB 1105, there are four new reporting requirements. The table provides a description of the reporting requirement and the types of entities that may be impacted by the new provisions.

Code Section	General Description	Entities Potentially Impacted
Section 5 of HB 1105  OCGA 35-1-17	This is a general provisions section in the Law and clarifies that it is the intent of the General Assembly to promote compliance with state laws related to deterring the presence of criminal illegal aliens. As such: <ul style="list-style-type: none"> <li>• State and local agencies shall promote compliance with state law related to deterring the presence of criminal illegal aliens;</li> <li>• They shall seek to enter into memorandums of understanding and memorandums of agreement with federal agencies; and</li> <li>• They shall be authorized to transport illegal aliens to a federal facility when authorized by a detainer notice.</li> </ul>	All Sheriffs’ Offices  Any entity that has a police department or law enforcement personnel. This could include: <ul style="list-style-type: none"> <li>• State agencies</li> <li>• Cities</li> <li>• Counties</li> <li>• Authorities</li> <li>• School Districts</li> <li>• Colleges/Universities</li> <li>• Technical Colleges</li> </ul>
Section 7 of HB 1105  OCGA 42-1-11.4	This provision requires the Department of Corrections to publish a quarterly report on the immigration status of inmates. The first report is due October 1, 2024.	This section only impacts the Department of Corrections.



Section 8 of HB 1105  OCGA 42-1-11.5	This provision relates to immigration detainer notices. Custodial authorities shall comply with such notices and inform persons of such notices.	This section impacts law enforcement departments/offices that operate jails or detention centers. This will include the Sheriffs' Offices and any other city or county that has a jail. This would also include the Department of Corrections.
Section 9 of HB 1105  OCGA 42-4-14	This provision requires custodial authorities to take steps to determine the immigration status of persons admitted to county jail.	Law enforcement entities that have a jail or detention center and the Department of Corrections.

**What changes are being made to the Immigration Reporting Collection System because of HB 1105?**

To address these new requirements, the Department of Audits and Accounts has added a new section to the collection system. This section will be labeled **"Title 35/42 – Law Enforcement Reporting."**

When your organization clicks on this section, you will see two Yes/No 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?

Based on your answers, you may be directed to answer other questions.

Question 1 = No Question 2 = No	No further response will be needed, and you will receive a message thanking you for confirming your response.
Question 1 = Yes Question 2 = No	Your entity will be directed to the questions only related to Title 35 reporting requirements. The certification questions are as follows: <ul style="list-style-type: none"> <li>○ I certify that, during this reporting period, law enforcement personnel have cooperated with federal authorities by sending, receiving, and maintaining information relating to the immigration status of any individual as reasonably needed for public safety purposes.</li> <li>○ I certify that the public entity authorizes officers to transport illegal aliens to a federal facility when authorized by a federal immigration detainer or federal arrest warrant.</li> <li>○ I certify that the public entity authorizes officers to arrest persons based on such person's status as an illegal alien or for violation of any federal immigration law.</li> <li>○ Has the law enforcement department entered into a memorandum of agreement with the US Department of Justice, Department of Homeland Security, or any other federal agency for the purpose of enforcing federal immigration? <ul style="list-style-type: none"> <li>○ Yes <ul style="list-style-type: none"> <li>▪ Date of Memorandum</li> </ul> </li> </ul> </li> </ul>



	<ul style="list-style-type: none"> <li>○ No           <ul style="list-style-type: none"> <li>▪ Has the entity sought such memorandums of understanding during this reporting period?               <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul> </li> </ul> </li> </ul>
<p>Question 1 = Yes Question 2 = Yes</p>	<p>Your entity will be directed to answer the certification requirements for both Title 35 and Title 42 provisions. In addition to the certification questions noted above, entities that answer “Yes” to both questions will be asked to certify their compliance with the following provisions:</p> <p><b>Compliance with OCGA 42-1-11.5</b></p> <ul style="list-style-type: none"> <li>○ I certify that, during this reporting period, the public entity has honored and fulfilled all detainer notices issued by the federal government during the reporting period which requested the entity maintain temporary custody of an illegal alien.</li> <li>○ I certify that the public entity has properly notified persons who are subject to such detainer notices during the reporting period of such notice.</li> </ul> <p><b>Compliance with OCGA 42-4-14</b></p> <ul style="list-style-type: none"> <li>○ I certify that, during this reporting period, the public entity made a reasonable effort to determine the nationality of a person confined and to determine that the person is not an illegal alien and further certifies this effort was made within 48 hours of the person’s confinement.</li> <li>○ I certify that the public entity sought the appropriate documentation to confirm nationality and adhered to the laws of this Code Section if it is determined that the person confined is an illegal alien.</li> </ul>

**Specific to the Department of Corrections** – you will receive one additional question that directly relates to your requirement to include certain data on your website.

We are in the process of incorporating these new requirements into our collection system. As soon as this is completed, we will post screenshots on our DOAA Website Resources Page.

**Changes to Reporting Form for Title 36-80-23 (Sanctuary Policy)**

Since 2016, entities have been required to certify whether they have enacted any sanctuary policies, which are prohibited by OCGA 36-80-23. House Bill 1105 modified the provisions of this section to include sheriffs’ offices and other law enforcement agencies. Additionally, the Legislature modified the definition of ‘Sanctuary Policy.’ We have clarified the wording in this section.

It should be noted that this section should be completed only by persons who have authority to make policy decisions. Therefore, we have added the requirement for the responder to note his/her name and title. This section will appear as follows in the collection system. If the person who needs to complete this section of the report does not currently have an account to access the system, they may create one. Entities are authorized to have multiple accounts and users.



Title 36-80-23: Sanctuary Policy – Step 1 of 2

**Attention: This section addresses policies of the governmental entity and should only be answered by persons who have authority to make policy decisions.**

OCGA 36-80-23 prohibits any local governing body from enacting, adopting, implementing or enforcing any sanctuary policy.

Local governing body includes any political subdivision of this state, including any county, consolidated government, municipality, authority, school district, commission, board, or any other local public body corporate, governmental unit, sheriff’s office, law enforcement agency, or political subdivision.

‘Sanctuary Policy’ means any regulation, rule, policy, or practice adopted by a local governing body which prohibits or restricts local officials or employees from complying with an immigration detainer notice or communicating or cooperating with federal officials or law enforcement officers with regard to reporting immigration status information which such local official or employee is acting within the scope of his or her official duties.

I certify that this entity has not enacted or adopted a sanctuary policy for any purpose or for any unit within the entity.

Yes  No

Certified By: \_\_\_\_\_

Title: \_\_\_\_\_

- Please type your name and title.

**New Requirement for DOAA to Review Compliance Reports**

In addition to the new reporting requirements, House Bill 1105 requires the Department of Audits and Accounts to review no less than five percent of the immigration compliance reports and make a determination of compliance. This review will be submitted to the Legislature and other members of State Leadership during the 2025 Session of the General Assembly. Given this, we encourage all entities to ensure the submissions are complete and accurate, and that the December 31, 2024 submission deadline be met.

We will continue to keep you updated on the new compliance and reporting requirements and their impact on your entity. Additionally, we will continue to update the immigration compliance section on our website as more guidance and materials become available. Resources relating to immigration compliance and reporting can be found at [Immigration - DOAA \(ga.gov\)](https://www.ga.gov/immigration).

Thank you for your efforts to comply with the annual immigration reporting requirements. We recommend you share this communication with anyone in your entity that may be involved in the compliance reporting process. If you have any questions regarding the new or existing requirements, please email us at [immhelp@audits.ga.gov](mailto:immhelp@audits.ga.gov).