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Via E-mail Only

July 3, 2025

Representative Marvin Lim
State Representative, District 98
611-B Coverdell Legislative Office Bldg.
Atlanta, GA 30334

Re: Request for Legal Opinion on Provisions of Title 42

Dear Representative Lim,

Thank you for your letter dated June 11, 2025, regarding interpretation of certain provisions of Title 42 of the Official Code of Georgia Annotated. As you may know, our office by law does not represent municipal or county entities and is unable to provide them with legal advice. While we have provided some advice to our State clients related to HB 1105, that advice is protected by the attorney-client privilege.

To the extent local law enforcement agencies within your district have any questions regarding statutory interpretation of Title 42 or otherwise, they should direct those inquiries to their respective city or county attorney, and in the case of individuals, they should seek the advice of private legal counsel. Some county sheriffs have their own legal counsel separate from county attorneys who they could appropriately consult.

With that in mind, I would note that the starting point of any statutory interpretation is to look to the plain and ordinary meaning of the text itself. *Deal v. Coleman*, 394 Ga. 170, 172 (2013). As you are likely aware, at least part of the legislative intent of HB 1105 is stated to be 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 and 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 of the United States.” O.C.G.A. § 35-1-17(a).

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Several of your specific questions deal with the application of O.C.G.A. § 42-1-11.5, which relates specifically to “custodial authorit[ies]” rather than law enforcement generally. Any local law enforcement and their legal counsel may want to first consider whether they fall within the defined term of a “custodial authority” in their determination of the statute’s specific implications for particular law enforcement agencies, as the analysis may end there. Again, questions related to the legal obligations or liability of a city or county law enforcement agency would be better answered by the appropriate local attorney.

I hope this is helpful. Please keep in mind that this is neither an official nor unofficial opinion of the Attorney General

Sincerely,

/s/ Nathan D. Hovey

Nathan D. Hovey
Assistant Attorney General