



*House of
Representatives*

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STANDING
COMMITTEES:

AGRICULTURE & CONSUMER AFFAIRS
APPROPRIATIONS
HEALTH
RETIREMENT

June 11, 2025

The Honorable Chris Carr
Attorney General of Georgia
40 Capitol Square, SW
Atlanta, GA 30334

Dear Attorney General Carr:

As State Representative for House District 98, I write to request your legal opinion as to certain provisions in Title 42 of the Official Code of Georgia Annotated. In speaking both to Georgia law enforcement charged with upholding these provisions as well as Georgia citizenry who may be impacted thereby, I believe these provisions require further clarification, under the belief that clarity of law leads to our safest, most just outcomes:

With respect to O.C.G.A. § 42-1-11.5(b)(1), regarding the requirement to “[c]omply with, honor, and fulfill any request made in the immigration detainer notice,” and O.C.G.A. § 42-4-14(d)(2), stating that “[i]f the LESC [Law Enforcement Support Center] of the United States Department of Homeland Security responds to contact pursuant to this paragraph with a request to detain an illegal alien, he or she shall not be released within 48 hours of receipt of such request; provided, however, that if such person was released prior to such request to detain, such fact shall be communicated to the LESC of the United States Department of Homeland Security”:

Question No. 1: What other documents – for example, an ICE administrative warrant (e.g., ICE Form I-200, ICE Form I-285) – must accompany such an immigration detainer notice, in order to obligate Georgia law enforcement to carry out the detainer?

Question No. 2: Are Georgia law enforcement exempt from liability pursuant to O.C.G.A. § 42-1-11.5(b)(1)’s “any request made” language if they are not able to comply with the current requirement per DHS Form I-247A (3/17) to “[n]otify DHS as early as practicable (at least 48 hours, if possible) before the alien is released from . . . custody” –

a situation that may arise, for example, if the law enforcement is unable to reach LESC in the given time frame (a situation contemplated, in a different context, in O.C.G.A. § 42-4-14(d)(2))?

Question No. 3: Does a civil immigration detainer request pursuant to these provisions – with or without an administrative warrant, yet without any other evidence of any other criminal activity – constitute either a warrant under Georgia law pursuant to Title 17, or probable cause for arrest without a warrant?

With respect to O.C.G.A. § 42-4-14, stating that “a reasonable effort shall be made within 48 hours of such person’s arrival at the jail or detention facility and pursuant to subsection (c) or (d) of this Code section to determine the: (1) The nationality of the person so confined; and (2) That the person so confined is not an illegal alien,” and O.C.G.A. § 42-4-14(d)(2), stating that “[n]o person shall be detained solely due to the inability to contact the LESC of the United States Department of Homeland Security pursuant to the provisions of this subsection”:

Question No. 4: Given these provisions, is it correct that Georgia law enforcement must release a person in their custody within 48 hours of the person’s arrival at the jail or detention facility even if their lawful presence has not been verified – including if ICE/LESC has provided either no response or any response except an immigration detainer request – so long as the person would have otherwise been released but for inability to confirm lawful presence with LESC?

Thank you for your attention to this matter.

Respectfully,



Marvin Lim
State Representative, House District 98



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June 13, 2025

The Honorable Chris Carr
Attorney General of Georgia
40 Capitol Square, SW
Atlanta, GA 30334

Dear Attorney General Carr:

Please allow me to include the following addendum to my letter to you dated June 13, 2025, regarding my request for your legal opinion as to certain provisions in Title 42 of the Official Code of Georgia Annotated.

With respect to OCGA 42-4-14(d)(2), which states that “[i]f the LESC of the United States Department of Homeland Security responds to contact pursuant to this paragraph with a request to detain an illegal alien, he or she shall not be released within 48 hours of receipt of such request; provided, however, that if such person was released prior to such request to detain, such fact shall be communicated to the LESC of the United States Department of Homeland Security,” and OCGA 42-4-14(g), which states that “Nothing in this Code section shall be construed to deny a person bond or from being released from confinement when such person is otherwise eligible for release”:

Question No. 5: The current DHS Form I-247A (i.e., immigration detainer notice) requests its recipient to “[m]aintain custody of the individual for a period **NOT TO EXCEED 48 HOURS** beyond the time when he/she would otherwise have been released from your custody to allow DHS to assume custody” (emphasis in original).¹ This

See Form I-247A, Immigration Detainer (Sample), NATIONAL IMMIGRANT JUSTICE CENTER, <https://immigrantjustice.org/for-attorneys/resources/form-1-247a-immigration-detainer-sample> (last visited Jun. 13, 2025) (I-247A form updated 2/25 per settlement with ICE); see also Immigration Detainer Sample, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, <https://www.ice.gov/sites/default/files/documents/Document/2017/I-247A.pdf> (last visited Jun. 13, 2025) (prior I-247A form updated 3/17 with similar language).

language implies 48 hours begins only when the individual is otherwise ready for release (i.e., no bond or has posted bond) – a practice to which, I have been informed, some sheriffs adhere. However, OCGA 42-4-14(d)(2) refers only to 48 hours upon receipt of the detainer request without additional qualification – and OCGA 42-4-14(g) refers only to eligibility for release (which may include, for example, the setting of bond, but not the posting thereof).

Therefore: per Georgia statutory language, does state law begin counting the 48 hours pursuant to OCGA 42-4-14(d)(2) upon receipt of the immigration detainer request, regardless of whether the individual is, at the time of receipt, otherwise ready for release (and regardless of conflicting language in DHS Form I-247A)?

Again, thank you for your attention to this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Marvin Lim".

Marvin Lim
State Representative, House District 98