

HOUSE BILL 202¹: PENAL INSTITUTIONS; COMMISSIONER OF CORRECTIONS TO REPORT CERTAIN INFORMATION; REQUIRE

Amending O.C.G.A. Title 42; and Repealing All Laws in Conflict with the Same

First signature: Representative Jesse Petrea (166th)

Co-Sponsors: Representative Bill Hitchens (161st), Representative Heath Clark (147th), Representative Alan Powell (32nd), Majority Caucus Secretary/Treasurer Bruce Williamson (115th), and Representative J. Collins (68th)

Summary: “To amend Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, so as to require the commissioner of corrections to report certain information regarding United States Immigration and Customs Enforcement detainees, offenses, and home countries of persons who are confined under the authority of the Department of Corrections; to provide for related matters; to repeal conflicting laws; and for other purposes.”²

Status: House Withdrawn, Recommitted on April 2, 2019.³

TEXT OF HOUSE BILL 202 (LC 41 1876S)⁴

SECTION 1.

Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended in Article 1 of Chapter 1, relating to inmate policies, by adding a new Code section to read as follows:

“42-1-11.3.

The commissioner shall, on the official website used by the department, publish a report of aggregate data on United States Immigration and Customs Enforcement detainees, offenses, and home countries of inmates who are not United States citizens and who are confined under the authority of the department and, with regard to the total population in confinement, the percentage that comprises persons who are not citizens of the United States. Such report shall be first published on October 1, 2019, and every 90 days thereafter; provided, however, that if the ninetieth day falls on a state holiday or Saturday or Sunday, then such report shall be published the next business day.”

SECTION 2.

¹ H.B. 202, 155th Gen. Assemb., 1st Reg. Sess. (Ga. 2019), available at <http://www.legis.ga.gov/Legislation/20192020/182773.pdf> (last visited Oct. 4, 2019).

² *Id.*

³ 2019-2020 Regular Session-HB 202, *Penal Institutions; Commissioner of Corrections to Report Certain Information; Require*, GA. GEN. ASSEMB., <http://www.legis.ga.gov/Legislation/en-US/display/20192020/HB/202> (last visited Oct. 4, 2019) [hereinafter H.B. 202 Status Sheet].

⁴ H.B. 202.

All laws and parts of laws in conflict with this Act are repealed.

SPONSOR'S RATIONALE

Representative Jesse Petrea, of the 166th district, introduces House Bill 202 that would provide to the public aggregate statistics on crimes committed by people in state prisons who are in the country illegally.⁵ This aggregate data would ensure transparency by making the data information public.⁶ Representative Petrea asserts that this aggregated list is needed because of the inability of Congress and both parties to deal with immigration in Georgia.⁷ He emphasizes that if the federal government had made sure that the people had a legal and vigorous immigration system, then violent crimes committed by illegal immigrants would not have occurred.⁸ With this Bill, constituents would be able to assess the degree to which the issue of illegal immigration affects their lives daily.⁹

As of February 28, 2019, the aggregate list shows 1,505 ice detainees in Georgia correctional facilities whose crimes include murder, rape, kidnapping, and other violent crimes against Georgians.¹⁰ This type of information is available to legislators, but is not currently available to the average citizen.¹¹ The Bill, as reiterated by Representative Petrea, is about public safety.¹²

Within the Bill, Representative Petrea indicates the cost on the budget for the inmates.¹³ The Bill would allow Georgians to have an idea of the cost to Georgia taxpayers of incarcerating illegal aliens.¹⁴ However, the data that the legislation would produce would not be an indicator of the entire cost of incarcerating all illegal aliens in the state.¹⁵ The political environment in which this Bill was introduced has hampered its ability to move forward out of the Rules Committee and to the House for a vote.¹⁶ Although it has captured attention from several pro-enforcement groups in Georgia and national news outlets, Governor Brian Kemp has not stepped in despite his promise of being tough on illegal immigration.¹⁷

⁵ Wes Wolfe, *Immigrant Crime Data Bill Wins Approval*, THE BRUNSWICK NEWS (Feb. 26, 2019), available at https://thebrunswicknews.com/news/local_news/immigrant-crime-data-bill-wins-approval/article_0e06fdd6-74ba-5b3a-b3bf-b5fc65921839.html (last visited Nov. 6, 2019).

⁶ GPB Lawmakers, *House Day 24*, YOUTUBE (Feb. 28, 2019) (beginning at 16:21), available at https://www.youtube.com/watch?time_continue=2&v=nTp5BiO5k-g (last visited Oct. 5, 2019) [hereinafter GPB Lawmakers].

⁷ *Id.*

⁸ Wolfe, *supra* note 4.

⁹ *Id.*

¹⁰ GPB Lawmakers, *supra* note 5. Subsequently, author received an updated list from Representative Petrea regarding the list of ice detainees (Jan. 13, 2020, 2:51 PM) (on file with the John Marshall Law Journal).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ D.A. King, *House Rules Committee Holding Incarceration Cost Transparency Bill Prisoner*, INSIDER ADVANTAGE (Mar. 1, 2019), available at <https://insideradvantage.com/2019/03/01/rulescommittee/> (last visited Oct. 5, 2019).

¹⁵ *Id.*

¹⁶ D.A. King, *HB 202 as Dead as Pancho Villa – Executive Order Needed*, INSIDER ADVANTAGE (Mar. 12, 2019), available at <https://insideradvantage.com/2019/03/12/hb-202-as-dead-as-pancho-villa-executive-order-needed/> (last visited Oct. 5, 2019).

¹⁷ *Id.*

OPPOSITION’S RATIONALE

A general criticism of House Bill 202 is that it would target and terrorize vulnerable immigrant populations.¹⁸ The Bill would require the Commissioner of Corrections to post a report on the Department of Corrections (DOC) website of all the data on non-citizens under the authority of DOC, creating an opportunity for targeted violence and hate crimes.¹⁹ While Representative Petrea states that the Bill is not about immigration, but rather about the transparency of aggregated data to the public, several Democrats believe that the Bill would inflame public opinion and create an opportunity for targeted violence against non-citizens.²⁰ Representative Robert Trammel echoes this belief that the release of the statistics would provoke public opinion against a group based on an individuals’ immigration status.²¹

Representative William Boddie has also expressed opposition to House Bill 202.²² He speculates that the release of the information on the DOC website could inflame inmates, as the list would single out a certain class of people.²³ Representative Boddie believes that this Bill is unnecessary to Georgia citizens.²⁴ He responds to the “public safety” argument by stating that the Bill is too inflammatory to certain people that are from different countries and is a slippery slope which could lead to “legislative mutation.”²⁵ Representative Boddie also speculates that such lists and information may be inaccurate or otherwise flawed by not specifying offenses.²⁶ Minor offenses, such as traffic offenses or civil violations, could lead to an inaccurate number because the offense would nevertheless be calculated.²⁷ This could in turn lead to an inaccuracy of information in the aggregated data report as to the “offenses” and the “home countries.”²⁸

The Peach State’s growing community of foreign-born Georgians is also a significant asset, providing a powerful boost to Georgia’s economy, workforce and finances.²⁹ Many states and cities around the country are recognizing the value of their immigrant populations.³⁰ Welcoming newcomers with open arms, rather than alienating them through misguided and hostile policies, is essential if we are to ensure Georgia remains an attractive and competitive state with a strong economy, high quality of life and thriving communities.³¹

¹⁸ Athens for Everyone, *2019 State Legislative Session*, A4E, 2019, available at <https://athensforeveryone.com/legislation/2019-state-legislative-session/> (last visited Oct. 5, 2019).

¹⁹ *Id.*

²⁰ GPB Lawmakers, *supra* note 5.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ Interview with Rep. William K. Boddie, Jr., Georgia Representative 62nd District (Oct. 30, 2019) [hereinafter Boddie Interview].

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ Jennifer Owens, *Immigrants Make Georgia Stronger and Better Every Day*, GEORGIA BUDGET AND POLICY INSTITUTE (Feb. 1, 2018), available at <https://gbpi.org/2018/immigrants-make-georgia-stronger-better-every-day/> (last visited Oct. 5, 2019).

³⁰ *Id.*

³¹ *Id.*

IMPLICATIONS IN GEORGIA

The aggregate data would include numbers on those under detainers from U.S. Immigrations and Customs Enforcement.³² It would also include offenses committed and the home countries of the inmates “who are not United States citizens and who are confined under the authority of the department.”³³ The data would include the percentage that comprises persons who are not citizens of the United States with regard to the total population in confinement.³⁴ The collected report would be published every 90 days.³⁵

The draft legislation would require state officials to provide quarterly reports on the number of deportable illegal migrants and of non-citizens who are held in detention and would help Georgia voters learn the number of criminal illegal aliens in their state.³⁶

LEGISLATIVE GENEALOGY

This Bill was first introduced in the House as House hopper on February 7, 2019.³⁷ The House first read it on February 8, 2019.³⁸ The second House readers occurred on February 11, 2019.³⁹ The House committee favorably reported the Bill by substitute on February 25, 2019, but it was withdrawn and recommitted on April 2, 2019.⁴⁰

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³² Wolfe, *supra* note 4.

³³ *Id.*

³⁴ *Id.*

³⁵ H.B. 202, 155th Gen. Assemb., 1st Reg. Sess. (Ga. 2019), *available at* <http://www.legis.ga.gov/Legislation/20192020/182773.pdf> (last visited Oct. 4, 2019).

³⁶ Neil Munro, *Georgia Establishment Legislators Try to Hide Migrant Crime from Voters*, BREITBART NEWS (Mar. 1, 2019), *available at* <https://www.breitbart.com/economy/2019/03/01/georgia-politicians-try-hide-migrant-crime-voters/> (last visited Oct. 5, 2019).

³⁷ H.B. 202 Status Sheet, *supra* note 3.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*