

_____ offers the following
substitute to SB 441:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts in general,
2 so as to provide for the reestablishment of the Criminal Case Data Exchange Board as an
3 advisory board to The Council of Superior Court Clerks of Georgia; to provide for
4 membership, selection of officers, meetings, and duties of such board; to provide for
5 continuation in office of current members; to provide for duties of The Council of Superior
6 Court Clerks of Georgia; to provide for transmission of data to the Georgia Crime
7 Information Center; to provide for definitions; to provide for implementation; to provide that
8 a superior court shall ensure that its operations do not conflict with the uniform standards
9 issued by The Council of Superior Court Clerks of Georgia; to provide for annual reports by
10 the council detailing activities and progress of groups within the Criminal Case Data
11 Exchange Board; to amend Title 35 of the Official Code of Georgia Annotated, relating to
12 law enforcement officers and agencies, so as to provide the Georgia Bureau of Investigation
13 with original jurisdiction to investigate election fraud and election crimes; to provide the
14 Georgia Bureau of Investigation with subpoena power to further such investigations; to
15 provide for penalty; to provide for compliance with data transmission requirements; to repeal
16 provisions concerning the Criminal Case Data Exchange Board; to provide for required
17 reports; to amend Chapter 25 of Title 50 of the Official Code of Georgia Annotated, relating
18 to the Georgia Technology Authority, so as to provide for release of funds from the

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technology empowerment fund, subject to certain conditions; to provide for legislative findings and intent; to provide for a short title; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

- (a) The General Assembly finds that:
 - (1) The state's current system for sharing criminal case data is not adequate to provide to all appropriately interested parties, including, but not limited to, law enforcement agencies and officers, courts, crime victims and other impacted individuals, housing providers, and employers, complete criminal case data;
 - (2) One recent report indicates there may be as many as 7 million criminal charges without a final disposition indicated, and, of those, as many as 5.4 million criminal charges have languished for years;
 - (3) Georgia's citizens and businesses are harmed by incomplete criminal case data. For example, in thousands of cases, as a result of incomplete criminal case data, citizens' employability and housing opportunities have been negatively impacted; and
 - (4) A more uniform, modern system and framework for handling criminal case data will support the state in meeting its obligations to victims to keep them informed as their perpetrators make their way through the criminal justice system.
- (b) It is the intent of the General Assembly that criminal case data be complete and accurately reported to the appropriate state data base and be accessible to state and local criminal justice agencies, employers, housing providers, victims, and all citizens.

SECTION 2.

This Act shall be known and may be cited as the "Criminal Records Responsibility Act."

SECTION 3.

5 Title 15 of the Official Code of Georgia Annotated, relating to courts in general, is amended
6 in Article 1 of Chapter 6, relating to general provisions for superior courts, by revising
7 subsection (a) of Code Section 15-6-11, relating to electronic filings of pleadings and
documents, electronic payments and remittances, access, and public disclosure, as follows:

18 "(a)(1) Pursuant to rules promulgated by the Criminal Case Data Exchange Board, ~~on and~~
19 after January 1, 2019 in effect on June 30, 2022, a superior court shall provide for the
20 filing of pleadings in criminal cases and any other document related thereto and for the
21 acceptance of payments and remittances by electronic means.

22 (2) The Council of Superior Court Clerks shall submit the uniform standards adopted by
23 the board pursuant to paragraph (5) of subsection (h) of Code Section 15-6-50.3 to the
24 Council of Superior Court Judges. The chief superior court judge of each judicial circuit
25 shall assist the superior court clerk with the implementation of such uniform standards.

26 A superior court judge may order any party to provide data needed by the clerk to
27 facilitate transmission of data."

SECTION 4.

58 Said title is further amended in Article 2 of Chapter 6, relating to clerks of superior courts,
59 by adding new subsections to Code Section 15-6-50.2, relating to The Council of Superior
60 Court Clerks of Georgia, to read as follows:

61 "(f) The council shall issue uniform standards not inconsistent with the uniform standards
62 promulgated by the Criminal Case Data Exchange Board pursuant to Code Section
63 15-6-50.3.

64 (g) By January 15 of each year, the council shall prepare a report detailing the activities
65 of the Criminal Case Data Exchange Board and the progress of the represented groups
66 within the board's membership to effect the uniform standards prescribed in paragraph (5)
67 of subsection (h) of Code Section 15-6-50.3 for the previous year. Such report shall be
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transmitted electronically or mailed to the office of the chairs of the Senate Judiciary Committee and the House Committee on Judiciary and to the Governor, Lieutenant Governor, Speaker of the House, and Chief Justice of the Supreme Court of Georgia no later than January 15 of each year.'

SECTION 5.

Said title is further amended in Article 2 of Chapter 6, relating to clerks of superior courts, by adding a new Code section to read as follows:

'15-6-50.3.

(a) As used in this Code section, the term:

(1) 'Board' shall mean the Criminal Case Data Exchange Board.

(2) 'Predecessor board' shall mean the Criminal Case Data Exchange Board, which was established as a board to the Criminal Justice Coordinating Council in 2018 by an Act of the General Assembly.

(b) The Criminal Case Data Exchange Board is reestablished as an advisory board to The Council of Superior Court Clerks of Georgia.

(c) The board shall consist of 19 members as follows:

(1) The executive director of The Council of Superior Court Judges of Georgia, the executive director of The Council of State Court Judges of Georgia, the executive director of The Council of Superior Court Clerks of Georgia, the executive director of the Prosecuting Attorneys' Council, the chairperson of the State Board of Pardons and Paroles, the commissioner of corrections, the commissioner of community supervision, the director of the Georgia Bureau of Investigation, the director of the Office of Planning and Budget, the director of the Administrative Office of the Courts, the chief information officer of the Georgia Technology Authority, the executive director of the Georgia Sheriffs' Association, and the executive director of the Georgia Association of Chiefs of

4 Police, provided that any such member may allow a designee to represent him or her at
5 a board meeting and vote in his or her stead; and

6 (2) Six members, one of whom is a superior court judge, one of whom is a state court
7 judge, one of whom is a clerk of a superior court, one of whom is a district attorney, one
8 of whom is a sheriff of a county, and one of whom is a police chief of a municipality,
9 shall be appointed by the Governor for terms of four years; provided, however, that any
0 person who, as of June 30, 2022, was serving as a member of the predecessor board
1 pursuant to an appointment by the Governor shall continue to serve as a member of the
2 board for the remainder of the term of such appointment; and provided, further, that no
3 person shall serve beyond the time he or she holds the office by reason of which he or she
4 was initially eligible for appointment.

5 (d) In the event of death, resignation, disqualification, or removal of any member of the
6 board for any reason, vacancies shall be filled in the same manner as the original
7 appointment and successors shall serve for the unexpired term.

8 (e) Membership on the board shall not constitute public office, and no member shall be
9 disqualified from holding public office by reason of his or her membership on the board.

10 (f) The board shall elect a chairperson from among its membership and may elect such
11 other officers and committees as it considers appropriate.

12 (g) Members of the board shall serve without compensation, although each member of the
13 board shall be reimbursed for actual expenses incurred in the performance of his or her
14 duties from funds available to The Council of Superior Court Clerks of Georgia. Such
15 reimbursement shall be limited to all travel and other expenses necessarily incurred through
16 service on the board, in compliance with this state's travel rules and regulations; provided,
17 however, that in no case shall a member of the board be reimbursed for expenses incurred
18 in the member's capacity as the representative of another state agency.

19 (h) The board shall:

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- (1) Meet no less than quarterly at such times and places as it shall determine necessary or convenient to perform its duties and also upon the call of the chairperson of the board, a designee of The Council of Superior Court Clerks of Georgia, or the Governor;
- (2) Maintain minutes of its meetings;
- (3) Participate in the review and improvement of this state's criminal case data exchange and management system;
- (4) Using the combined expertise and experience of its members, provide regular advice and counsel to The Council of Superior Court Clerks of Georgia to enable such council and its members to carry out its statutory duties under this article;
- (5) By September 1, 2022, promulgate uniform standards for the creation and transmission of electronic criminal history data by and between local and state criminal justice agencies. Such data shall include arrests; indictments, accusations, information, and other formal charges; and final dispositions arising therefrom, including, but not limited to, convictions;
- (6) Make recommendations for the improvement of criminal history data sharing for the benefit of the public, employers, and law enforcement;
- (7) Carry out such duties that may be required by federal law or regulation so as to enable this state to receive and disburse federal funds for criminal case data exchange and management; and
- (8) By November 1, 2022, after having conducted a comprehensive review of automated victim notification systems, make a recommendation for adoption of an automated system in Georgia that provides for individualized notification to victims of certain occurrences in each case involving the victim, including, but not limited to, occurrences of arrest, pre-trial release, court hearings, and sentencing. Such system shall also be able to reconcile individuals' criminal data at all steps of the data exchange process. Such recommendation and any accompanying report shall be transmitted to the director of the Georgia Crime Information Center, the executive director of the Georgia Sheriff's

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47 Association, and the executive director of the Prosecuting Attorneys' Council and be
48 available to all members of the board. Nothing in this Code section shall be construed
49 to limit or otherwise prevent criminal justice agencies from improving the organization
50 of their respective data or developing and implementing, individually or collectively, an
151 automated victim notification system for crime victims in this state during or after the
152 time the comprehensive review of automated victim notification systems is being
153 conducted.

154 (i) Public access to data that are collected or transmitted via the criminal case information
155 exchange shall remain the responsibility of the Georgia Crime Information Center. No
156 release of collected data shall be made by or through the Georgia Technology Authority."

157 SECTION 6.

158 Said title is further amended in Article 2 of Chapter 6, relating to clerks of superior courts,
159 by revising subparagraph (a)(4)(B) and paragraph (18) of subsection (a) of Code Section
160 15-6-61, relating to duties of clerks generally and computerized record-keeping system, as
161 follows:

162 "(B) An automated criminal case management system which shall contain a summary
163 record of all criminal indictments in which true bills are rendered and all criminal
164 accusations filed in the office of clerk of superior court in accordance with rules
165 promulgated by ~~the Criminal Case Data Exchange Board~~ The Council of Superior
166 Court Clerks of Georgia. The criminal case management system shall contain entries
167 of other matters of a criminal nature filed with the clerk, including quasi-civil
168 proceedings and entries of cases which are ordered dead docketed. When a case is dead
169 docketed, all witnesses who may have been subpoenaed therein shall be released from
170 further attendance until resubpoenaed; and"

171 "(18) To electronically collect all data elements required in pursuant to subsection (g) of
172 Code Section 35-3-36, and such clerk of superior court ~~may~~ shall transmit such data to

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the Georgia Superior Court Clerks' Cooperative Authority in a form and format required
by such authority and The Georgia Crime Information Center, in a form and format
required by and Council of Superior Court Clerks of Georgia, consistent with uniform
standards issued by The Council of Superior Court Clerks of Georgia. Any data
transmitted to the authority pursuant to this paragraph shall be transmitted to the Georgia
Crime Information Center in satisfaction of the clerk's duties under subsection (g) of
Code Section 35-3-36 and to the Georgia Courts Automation Commission which shall
provide the data to the Administrative Office of the Courts for use by the state judicial
branch upon request. Public access to said data shall remain the responsibility of only the
Georgia Crime Information Center. No release of collected data shall be made by or
through the authority."

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SECTION 7.

Said title is further amended in Article 1 of Chapter 7, relating to general provisions for state
courts of counties, by revising subsection (a) of Code Section 15-7-5, relating to electronic
filings of pleadings and documents, electronic payments and remittances, access, and public
disclosure, as follows:

"(a)(1) Pursuant to rules promulgated by the Criminal Case Data Exchange Board on and
after January 1, 2019, in effect on June 30, 2022, a state court shall provide for the filing
of pleadings in criminal cases and any other document related thereto and for the
acceptance of payments and remittances by electronic means.

(2) The Council of Superior Court Clerks shall submit the uniform standards adopted by
the board pursuant to paragraph (5) of subsection (h) of Code Section 15-6-50.3 to the
Council of State Court Judges. The chief state court judge of each county shall assist the
state court clerk with the implementation of such uniform standards. A state court judge
may order any party to provide data needed by the clerk to facilitate transmission of data."

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SECTION 8.

Said title is further amended in Article 1 of Chapter 18, relating to general provisions for prosecuting attorneys, by revising Code Section 15-18-6, relating to duties of district attorney, as follows:

"15-18-6.

The duties of the district attorneys within their respective circuits are:

- (1) To attend each session of the superior courts unless excused by the judge thereof and to remain until the business of the state is disposed of;
- (2) To attend on the grand juries, advise them in relation to matters of law, and swear and examine witnesses before them;
- (3) To administer the oaths the laws require to the grand and trial jurors and to the bailiffs or other officers of the court and otherwise to aid the presiding judge in organizing the courts as he may require;
- (4) To draw up all indictments or presentments, when requested by the grand jury, and to prosecute all indictable offenses;
- (5) To prosecute civil actions to enforce any civil penalty set forth in Code Section 40-6-163 and to prosecute or defend any other civil action in the prosecution or defense of which the state is interested, unless otherwise specially provided for;
- (6) To attend before the appellate courts when any criminal case emanating from their respective circuits is tried, to argue the same, and to perform any other duty therein which the interest of the state may require;
- (7) To advise law enforcement officers concerning the sufficiency of evidence, warrants, and similar matters relating to the investigation and prosecution of criminal offenses;
- (8) To collect all money due the state in the hands of any escheators and to pay it over to the educational fund, if necessary, compelling payment by rule or order of court or other legal means;

224 (9) To collect all claims of the state which they may be ordered to collect by the state
 225 revenue commissioner and to remit the same within 30 days after collection; and on
 226 October 1 of every year to report to the state revenue commissioner the condition of the
 227 claims in their hands in favor of the state, particularly specifying:

228 (A) The amounts collected and paid, from what sources received and for what
 229 purposes, and to whom paid;

230 (B) What claims are unpaid and why;

231 (C) What judgments have been obtained, when, and in what court; and

232 (D) What actions are instituted, in what courts, and their present progress and future
 233 prospects;

234 (10) To ensure disposition information is submitted in accordance with subsection (g)
 235 of Code Section 35-3-36 when a final disposition decision is made by a district attorney;

236 ~~(10)~~(11) To assist victims and witnesses of crimes through the complexities of the
 237 criminal justice system and ensure that the victims of crimes are apprised of the rights
 238 afforded them under the law; and

239 ~~(11)~~(12) To perform such other duties as are or may be required by law or which
 240 necessarily appertain to their office."

241 **SECTION 9.**

242 Said title is further amended in Article 3 of Chapter 18, relating to solicitors-general of the
 243 state courts, by revising subsection (a) of Code Section 15-18-66, relating to duties and
 244 authority, as follows:

245 "(a) The duties of the solicitors-general within their respective counties are:

246 (1) To attend each session of the state court when criminal cases are to be heard unless
 247 excused by the judge thereof and to remain until the business of the state is disposed of;

248 (2) To administer the oaths required by law to the bailiffs or other officers of the court
 249 and otherwise to aid the presiding judge in organizing the court as may be necessary;

10 (3) To file accusations on such criminal cases deemed prosecutable and, subject to
11 paragraph (10) of subsection (b) of this Code section, to prosecute all accused offenses;

12 (4) To ensure disposition information is submitted in accordance with subsection (g) of
13 Code Section 35-3-36 when a final disposition decision is made by a solicitor-general;

14 ~~(4)~~(5) To attend before the appellate courts when any criminal case in which the
15 solicitor-general represents the state is heard, to argue the same, and to perform any other
16 duty therein which the interest of the state may require; and

17 ~~(5)~~(6) To perform such other duties as are or may be required by law or which
18 necessarily appertain to their office."

259 **SECTION 10.**

260 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
261 agencies, is amended in Code Section 35-3-4, relating to powers and duties of the Georgia
262 Bureau of Investigation generally, by revising subsection (a) as follows:

263 "(a) It shall be the duty of the bureau to:

264 (1) Take, receive, and forward fingerprints, photographs, descriptions, and measurements
265 of persons in cooperation with the bureaus and departments of other states and of the
266 United States;

267 (2) Exchange information relating to crime and criminals;

268 (3) Keep permanent files and records of such information procured or received;

269 (4) Provide for the scientific investigation of articles used in committing crimes or
270 articles, fingerprints, or bloodstains found at the scene of a crime;

271 (5) Provide for the testing and identification of weapons and projectiles fired therefrom;

272 (6) Acquire, collect, classify, and preserve any information which would assist in the
273 identification of any deceased individual who has not been identified after the discovery
274 of such deceased individual;

- 275 (7) Acquire, collect, classify, and preserve immediately any information which would
 276 assist in the location of any missing person, including any minor, and provide
 277 confirmation as to any entry for such a person to the parent, legal guardian, or next of kin
 278 of that person and the bureau shall acquire, collect, classify, and preserve such
 279 information from such parent, guardian, or next of kin;
- 280 (8) Exchange such records and information as provided in paragraphs (6) and (7) of this
 281 subsection with, and for the official use of, authorized officials of the federal government,
 282 the states, cities, counties, and penal and other institutions. With respect to missing
 283 minors, such information shall be transmitted immediately to other law enforcement
 284 agencies;
- 285 (9) Identify and investigate violations of Article 4 of Chapter 7 of Title 16;
- 286 (10) Identify and investigate violations of Part 2 of Article 3 of Chapter 12 of Title 16,
 287 relating to offenses related to minors;
- 288 (11) Identify and investigate violations of Article 8 of Chapter 9 of Title 16;
- 289 (12) Identify and investigate violations of Article 5 of Chapter 8 of Title 16;
- 290 (13) Identify and investigate violations of Code Section 16-5-46;
- 291 (14) Identify and investigate violations of Article 8 of Chapter 5 of Title 16;
- 292 (15)(A) Upon request, provide to the board an analysis of criminal history record
 293 information to assist the board in determining a sexual offender's risk assessment
 294 classification in accordance with the board's duties as specified in Code
 295 Section 42-1-14.
- 296 (B) As used in this paragraph, the term:
- 297 (I) 'Board' means the Sexual Offender Registration Review Board.
- 298 (ii) 'Criminal history record information' has the same meaning as set forth in Code
 299 Section 35-3-30.
- 300 (iii) 'Risk assessment classification' means the level into which a sexual offender is
 301 placed based on the board's assessment.

02 (iv) 'Sexual offender' has the same meaning as set forth in Code Section 42-1-12; and
03 (16) Identify and investigate violations of Chapter 2 of Title 21 involving elections
04 which if established are sufficient to change or place in doubt the results of an election;
05 and

06 ~~(16)~~(17) Attorneys employed by the Legal Division of the bureau may serve at the
07 request of a district attorney, solicitor-general, or United States Attorney in the
08 prosecution of any civil or criminal case within the jurisdiction of such district attorney,
09 solicitor-general, or United States Attorney and, while providing such assistance to such
10 district attorney, solicitor-general, or United States Attorney, such attorneys shall have
11 the same authority and power as an attorney employed by such district attorney,
12 solicitor-general, or United States Attorney."

313 SECTION 11.

314 Said title is further amended by adding a new Code section to read as follows:

315 "35-3-4.5.

316 (a) In any investigation of a violation of Chapter 2 of Title 21 involving elections, the
317 director, assistant director, or deputy director for investigations shall be authorized to issue
318 a subpoena, with the consent of the Attorney General, to compel the production of books,
319 papers, documents, or other tangible items, including records and documents contained
320 within or generated by a computer or any other electronic device, unless such records are
321 wholly owned by the federal government, and to undertake, at the discretion of the bureau,
322 an audit of materials produced in response to such subpoena in a form deemed necessary
323 by the bureau.

324 (b) Upon failure of a person without lawful excuse to obey a subpoena, the director,
325 assistant director, or deputy director for investigations, through the prosecuting attorney,
326 may apply to a superior court having jurisdiction for an order compelling compliance.
327 Such person may object to the subpoena on the grounds that it fails to comply with this

328 Code section or upon any constitutional or other legal right or privilege of such person.
 329 The court may issue an order modifying or setting aside such subpoena or directing
 330 compliance with the original subpoena. Failure to obey a subpoena issued under this Code
 331 section may be punished by the court as contempt of court."

332 **SECTION 12.**

333 Said title is further amended by revising subsection (b) of Code Section 35-3-32, relating to
 334 establishment of council, composition, and duties and responsibilities of the Georgia Crime
 335 Information Center Council generally, as follows:

336 "(b) The duties and responsibilities of the council are to:

337 (1) Advise and assist in the establishment of policies under which the center is to be
 338 operated;

339 (2) Advise and assist in updating the policies under which the center is to be operated,
 340 to the extent that such policies are necessary to comply with the uniform standards
 341 promulgated pursuant to paragraph (5) of subsection (h) of Code Section 15-6-50.3 issued
 342 by The Council of Superior Court Clerks of Georgia;

343 ~~(2)~~(3) Ensure that the information obtained pursuant to this article shall be restricted to
 344 the items specified in this article and ensure that the center is administered so as not to
 345 accumulate any information or distribute any information that is not specifically approved
 346 in this article;

347 ~~(3)~~(4) Ensure that adequate security safeguards are incorporated so that the data available
 348 through this system is used only by properly authorized persons and agencies;

349 ~~(4)~~(5) Establish appropriate disciplinary measures to be taken by the center in the
 350 instance of violations of data reporting or dissemination of laws, rules, and regulations
 351 by criminal justice agencies or members thereof covered by this article; and

352 ~~(5)~~(6) Establish other policies which provide for the efficient and effective use and
 353 operation of the center under the limitations imposed by the terms of this article."

SECTION 13.

Said title is further amended by adding a new paragraph to subsection (a) of Code Section 35-3-33, relating to powers and duties of the Georgia Crime Information Center generally, to read as follows:

"(16.1) Provide at least quarterly to each clerk of superior court in this state, and upon request by any such clerk, a report detailing the number of open criminal charges, time expired restricted charges, and closed criminal charges for each county, respectively. Such report shall also be provided to any judge or prosecuting attorney of this state, upon request. Such report may be transmitted electronically or by mail in the discretion of the director of the center."

SECTION 14.

Said title is further amended by revising subsection (g) of Code Section 35-3-36, relating to duties of state criminal justice agencies as to submission of fingerprints, photographs, and other identifying data to center and responsibility for accuracy, as follows:

"(g)(1) Criminal justice agencies within this state, all ~~All~~ persons in charge of law enforcement agencies, clerks of court or the Georgia Superior Court Clerks' Cooperative Authority as applicable, municipal judges when such judges do not have a clerk, magistrates, persons in charge of community supervision, juvenile probation, or Article 6 of Chapter 8 of Title 42 probation offices, and the State Board of Pardons and Paroles shall transmit to the center the information described in Code Section 35-3-33 within 30 days of the creation or receipt of such information, except as provided in subsection (d) of this Code section, on the basis of the forms and instructions to be provided by the center. Such forms and instructions shall not be inconsistent with the uniform standards promulgated pursuant to paragraph (5) of subsection (h) of Code Section 15-6-50.3 issued by The Council of Superior Court Clerks of Georgia.

relating to technology empowerment fund, appropriations, initiatives, and steering committee, to read as follows:

"(e) Upon enactment of enforceable uniform standards for the submission of electronic records to the Georgia Crime Information Center promulgated by The Council of Superior Court Clerks of Georgia, and subject to the availability of appropriations and moneys otherwise available to the authority, the authority is authorized to release funds from the technology empowerment fund for the purpose of installing or upgrading criminal justice information systems to be used by criminal justice agencies for complying with their respective obligations to provide information and data to the Georgia Crime Information Center."

SECTION 19.

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

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(1) of this subsection is mandatory; information described in Code

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