

House Bill 1392

By: Representatives Gunter of the 8th, Smith of the 18th, Momtahan of the 17th, Fleming of the 121st, Jones of the 47th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding the Georgia Bureau of Investigation, so as to provide
3 the Georgia Bureau of Investigation with original jurisdiction to investigate election fraud
4 and election crimes; to provide the Georgia Bureau of Investigation with subpoena power to
5 further such investigations; to provide for penalty; to provide for related matters; to provide
6 for an effective date and applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 1 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to
10 general provisions regarding the Georgia Bureau of Investigation, is amended by revising
11 subsection (a) of Code Section 35-3-4, relating to powers and duties of bureau generally, as
12 follows:

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

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

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- 17 (2) Exchange information relating to crime and criminals;
- 18 (3) Keep permanent files and records of such information procured or received;
- 19 (4) Provide for the scientific investigation of articles used in committing crimes or
20 articles, fingerprints, or bloodstains found at the scene of a crime;
- 21 (5) Provide for the testing and identification of weapons and projectiles fired therefrom;
- 22 (6) Acquire, collect, classify, and preserve any information which would assist in the
23 identification of any deceased individual who has not been identified after the discovery
24 of such deceased individual;
- 25 (7) Acquire, collect, classify, and preserve immediately any information which would
26 assist in the location of any missing person, including any minor, and provide
27 confirmation as to any entry for such a person to the parent, legal guardian, or next of kin
28 of that person and the bureau shall acquire, collect, classify, and preserve such
29 information from such parent, guardian, or next of kin;
- 30 (8) Exchange such records and information as provided in paragraphs (6) and (7) of this
31 subsection with, and for the official use of, authorized officials of the federal government,
32 the states, cities, counties, and penal and other institutions. With respect to missing
33 minors, such information shall be transmitted immediately to other law enforcement
34 agencies;
- 35 (9) Identify and investigate violations of Article 4 of Chapter 7 of Title 16;
- 36 (10) Identify and investigate violations of Part 2 of Article 3 of Chapter 12 of Title 16,
37 relating to offenses related to minors;
- 38 (11) Identify and investigate violations of Article 8 of Chapter 9 of Title 16;
- 39 (12) Identify and investigate violations of Article 5 of Chapter 8 of Title 16;
- 40 (13) Identify and investigate violations of Code Section 16-5-46;
- 41 (14) Identify and investigate violations of Article 8 of Chapter 5 of Title 16;
- 42 (15)(A) Upon request, provide to the board an analysis of criminal history record
43 information to assist the board in determining a sexual offender's risk assessment

44 classification in accordance with the board's duties as specified in Code
45 Section 42-1-14.

46 (B) As used in this paragraph, the term:

47 (i) 'Board' means the Sexual Offender Registration Review Board.

48 (ii) 'Criminal history record information' has the same meaning as set forth in Code
49 Section 35-3-30.

50 (iii) 'Risk assessment classification' means the level into which a sexual offender is
51 placed based on the board's assessment.

52 (iv) 'Sexual offender' has the same meaning as set forth in Code Section 42-1-12; ~~and~~

53 (16) Identify and investigate violations of Chapter 2 of Title 21 involving elections; and

54 ~~(16)~~(17) Attorneys employed by the Legal Division of the bureau may serve at the
55 request of a district attorney, solicitor-general, or United States Attorney in the
56 prosecution of any civil or criminal case within the jurisdiction of such district attorney,
57 solicitor-general, or United States Attorney and, while providing such assistance to such
58 district attorney, solicitor-general, or United States Attorney, such attorneys shall have
59 the same authority and power as an attorney employed by such district attorney,
60 solicitor-general, or United States Attorney."

61 **SECTION 2.**

62 Said article is further amended by adding a new Code section to read as follows:

63 "35-3-4.5.

64 (a) In any investigation of a violation of Chapter 2 of Title 21 involving elections, the
65 director, assistant director, or deputy director for investigations shall be authorized to issue
66 a subpoena, with the consent of the Attorney General, to compel the production of books,
67 papers, documents, or other tangible items, including records and documents contained
68 within or generated by a computer or any other electronic device, unless such records are
69 wholly owned by the federal government and to undertake, at the discretion of the bureau,

70 an audit of materials produced in response to such subpoena in a form deemed necessary
71 by the bureau.

72 (b) Upon failure of a person without lawful excuse to obey a subpoena, the director,
73 assistant director, or deputy director for investigations, through the prosecuting attorney,
74 may apply to a superior court having jurisdiction for an order compelling compliance.
75 Such person may object to the subpoena on the grounds that it fails to comply with this
76 Code section or upon any constitutional or other legal right or privilege of such person.
77 The court may issue an order modifying or setting aside such subpoena or directing
78 compliance with the original subpoena. Failure to obey a subpoena issued under this Code
79 section may be punished by the court as contempt of court."

80 **SECTION 3.**

81 This Act shall become effective upon its approval by the Governor or upon its becoming law
82 without such approval and shall apply to all crimes committed on and after such date.

83 **SECTION 4.**

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