

House Bill 88 (COMMITTEE SUBSTITUTE)

By: Representatives Gaines of the 120th, Werkheiser of the 157th, Powell of the 33rd, Crowe of the 118th, Evans of the 57th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure,
2 so as to enact the "Coleman-Baker Act"; to provide a short title; to provide for definitions;
3 to provide for review of cold case murder files by law enforcement agencies; to provide for
4 application of review; to provide for limitations of review; to provide for notification
5 regarding review; to provide for the promulgation of regulations; to provide for reporting
6 requirements; to provide for conflicting investigations; to provide for applicability; to
7 provide for related matters; to provide for an effective date; to repeal conflicting laws; and
8 for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
12 amended by adding a new chapter to read as follows:

H. B. 88 (SUB)

13 "CHAPTER 2114 17-21-1.15 This chapter shall be known and may be cited as the 'Coleman-Baker Act.'16 17-21-2.17 As used in this chapter, the term:18 (1) 'Agency' means a law enforcement agency with the jurisdiction to engage in the
19 detection, investigation, or prosecution of a cold case murder.20 (2) 'Cold case' means a homicide:21 (A) That was committed more than six years prior to the date of an application by a
22 designated person under subsection (c) of this Code section; and23 (B) That was previously investigated by an agency; and24 (C) For which all probative leads have been exhausted; or25 (D) For which no likely perpetrator has been identified.26 (3) 'Designated person' means an immediate family member or their designated legal
27 representative who shall be a member in good standing with the Georgia State Bar.28 (4) 'Immediate family member' means a parent, parent-in-law, grandparent,
29 grandparent-in-law, sibling, spouse, child, or stepchild of a victim or any person who
30 exercised in loco parentis control over a victim under the age of 18 years.31 (5) 'Murder' means any criminal offense provided under Code Section 16-5-1.32 (6) 'Probative lead' means evidence which is sufficiently useful to prove an element of
33 the crime, which was not identified or determined as part of the previous investigation
34 by the agency.35 (7) 'Victim' means a natural person who died as a result of a cold case murder.

36 17-21-3.

37 (a) The head of an agency or his or her designee shall review the case file regarding a cold
38 case murder upon written application by one designated person to determine if a full
39 reinvestigation would result in:

40 (1) The identification of probative investigative leads; or

41 (2) A likely perpetrator.

42 (b) The review conducted under subsection (a) of this Code section shall include:

43 (1) An analysis of what investigative procedures may have been missed in the initial
44 investigation;

45 (2) An assessment of whether witnesses should be interviewed or reinterviewed;

46 (3) An examination of physical evidence to see if all appropriate forensic testing and
47 analysis was performed in the first instance or if additional testing might produce
48 information relevant to the investigation; and

49 (4) An update of the case file using the most current investigative standards as of the date
50 of the review to the extent it would help develop probative leads.

51 (c)(1) The agency shall conduct a full reinvestigation of the cold case murder at issue if
52 in the agency's sole discretion the review of the case file concludes that a full
53 reinvestigation of such cold case murder would result in additional, previously
54 unidentified, probative leads or a likely perpetrator.

55 (2) A full reinvestigation shall include reviewing all evidence and analyzing those items
56 which may contain forensic value collected in the cold case murder at issue for the
57 purpose of developing probative leads or a likely perpetrator.

58 (d)(1) A reinvestigation required under subsection (c) of this Code section shall not be
59 solely conducted by a person who previously investigated the homicide at issue.

60 (2) Only one full reinvestigation shall be undertaken at any one time with respect to the
61 same victim.

62 (3) If a full reinvestigation of a cold case murder is completed and a likely perpetrator
63 is not identified at its conclusion, no additional case file review or full reinvestigation
64 shall be undertaken with regard to that cold case murder for a period of five years
65 beginning on the date of the conclusion of the reinvestigation, unless there is newly
66 discovered, materially significant evidence.

67 (e)(1) Each agency shall develop a written application to be used by a designated person
68 to request a case file review under subsection (a) of this Code section.

69 (2) Not later than one year after the date of enactment of this chapter, the head of each
70 agency or his or her designee shall promulgate procedures to ensure compliance by the
71 agency with the provisions described in this chapter.

72 (f) The agency shall provide in writing to the designated person who made the application
73 as soon as reasonably possible confirmation of the agency's receipt of the application. The
74 agency's written confirmation shall include the process to submit a complaint to and contact
75 information for the agency's unit responsible for internal investigations involving
76 misconduct allegations.

77 (g)(1) In any case in which a written application for review has been received under this
78 chapter by the investigating agency, review shall be declined where the case does not
79 satisfy any criteria under paragraph (2) of Code Section 17-21-2 for a cold case murder.

80 (2) In such a case, the head of the agency or his or her designee shall issue a written
81 letter, with a copy provided to the designated person who made the application under
82 paragraph (1) of this subsection, stating that final review is not necessary.

83 (h) Not later than six months after the receipt of the written application, the agency shall
84 complete its case file review and conclude whether or not a full reinvestigation is warranted
85 as provided in subsection (a) of this Code section.

86 (i) The agency may extend the time limit under subsection (h) of this Code section once
87 for a period of time not to exceed six months if the agency makes a finding that the number
88 of case files to be reviewed make it impracticable to comply with such limit without

89 unreasonably taking resources from other law enforcement activities. For cases for which
90 the time limit is extended, the agency shall provide notice and an explanation of its
91 reasoning to one designated person who filed the written application for review.
92 (j) The procedures promulgated under subsection (e) of this Code section shall require a
93 course of training by an instructor certified by the Georgia Peace Officer Standards and
94 Training Council as provided in Code Section 35-8-8 for appropriate employees and
95 officers within the agency regarding the procedures, responsibilities, and obligations
96 required under this chapter.
97 (k) The Carl Vinson Institute of Government of the University of Georgia shall establish
98 and maintain a case tracking system and searchable public website that includes the
99 following information about cold case murder investigations provided under this chapter:
100 (1) The number of written applications filed with the agency as provided in
101 subsection (e) of this Code section;
102 (2) The number of extensions granted and an explanation of reasons provided under
103 subsection (i) of this Code section;
104 (3) The number of full reinvestigations initiated and closed as provided in subsection (h)
105 of this Code section; and
106 (4) Statistical information on the aggregate number of cold cases, suspects, arrests,
107 indictments, and convictions.
108 (1)(1) If more than one agency conducted the initial investigation of a cold case murder,
109 each agency shall coordinate their case file review or full reinvestigation such that there
110 is only one joint case file review or full reinvestigation occurring at a time as provided
111 in paragraph (2) of subsection (d) of this Code section.
112 (2) If more than one agency conducted the initial investigation of a cold case murder, if
113 any involved agency conducts a full reinvestigation and a likely perpetrator is not
114 identified at its conclusion, no additional case file review or full reinvestigation is
115 required to be undertaken with regard to that cold case murder for a period of five years

116 by any involved agency beginning on the date of the conclusion of the reinvestigation,
117 unless there is newly discovered, materially significant evidence.

118 (m) The provisions of this chapter are subject to the availability of funds specifically
119 appropriated by the General Assembly, or other relevant political subdivision of the state,
120 for this purpose.

121 17-21-4.

122 (a) This Code section shall apply in the case of any cold case murder occurring on or after
123 January 1, 1970.

124 (b) This chapter shall authorize a coroner or medical examiner to issue a death certificate
125 as provided by Code Section 45-16-24, with a nonspecific cause of death and manner of
126 homicide if, at the sole discretion of the coroner or medical examiner, the release of such
127 information would not hinder the homicide investigation.

128 (c) In a case where the cause of death is listed as nonspecific homicidal means or
129 undetermined and subsequent investigative information is provided sufficient to determine
130 a specific cause of death, the coroner or medical examiner shall have six months from the
131 date of final disposition of the investigation to file an amended death certificate to include
132 the official cause of death.

133 (d) Nothing in this Code section shall prevent the probate or administration of the estate
134 of a homicide victim or the distribution of any death benefits to the beneficiaries due to the
135 withholding of the cause of death of a homicide victim."

136 **SECTION 2.**

137 This Act shall become effective on July 1, 2023.

138 **SECTION 3.**

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