

House Bill 368

By: Representatives Ballinger of the 23<sup>rd</sup>, Taylor of the 173<sup>rd</sup>, Hitchens of the 161<sup>st</sup>, Burns of the 159<sup>th</sup>, and Lumsden of the 12<sup>th</sup>

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 that the Georgia Bureau of Investigation shall perform as the primary law enforcement  
4 agency for identifying and investigating the death of any person under the age of 18 years  
5 or when such persons are victims of homicide; to provide for jurisdiction; to revise the  
6 powers of agents of the bureau for such purposes; to provide for subpoena powers for such  
7 purposes; to provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 1 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to  
11 general provisions regarding the Georgia Bureau of Investigation, is amended by adding a  
12 new Code section to read as follows:

13 "35-3-4.5.

14 (a) In any investigation of a violation of Article 1 of Chapter 5 of Title 16 when the victim  
15 is under the age of 18 years or criminal investigation involving the death of any person who  
16 is known to be under the age of 18 years, the director, assistant director, or deputy director

17 for investigations shall be authorized to issue a subpoena, with the consent of the Attorney  
18 General, to compel the production of books, papers, documents, or other tangible things,  
19 including records and documents contained within, or generated by, a computer or any  
20 other electronic device.

21 (b) Upon the failure of a person without lawful excuse to obey a subpoena, the director,  
22 assistant director, or the deputy director for investigations, through the Attorney General  
23 or district attorney, may apply to a superior court having jurisdiction for an order  
24 compelling compliance. Such person may object to the subpoena on grounds that it fails  
25 to comply with this Code section or upon any constitutional or other legal right or privilege  
26 of such person. The court may issue an order modifying or setting aside such subpoena or  
27 directing compliance with the original subpoena. Failure to obey a subpoena issued under  
28 this Code section may be punished by the court as contempt of court."

29 **SECTION 2.**

30 Said article is further amended by revising Code Section 35-3-8, relating to powers of agents  
31 of bureau generally, as follows:

32 "35-3-8.

33 (a) All properly appointed agents of the bureau shall have the powers, including the power  
34 of making arrests and appearing in court, for ~~the~~:

35 (1) The enforcement of all criminal statutes pertaining to the manufacture, transportation,  
36 distribution, sale, or possession of liquor, wine, beer, alcoholic beverages, cigars,  
37 cigarettes, little cigars, cheroots, stogies, and loose or smokeless tobacco and shall  
38 concurrently with agents and enforcement officers appointed by the state revenue  
39 commissioner have the authority throughout the state as provided for under subsection (b)  
40 of this Code section;

41 (2) The investigation of the death of any person who is under the age of 18 years; and

42 (3) The enforcement of Article 1 of Chapter 5 of Title 16 when the victim is under the  
43 age of 18 years.

44 (b) In exercising the authority provided for under subsection (a) of this Code section,  
45 agents of the bureau shall have the authority to:

46 (1) Obtain and execute warrants for the arrest of persons charged with violations of such  
47 laws;

48 (2) Obtain and execute search warrants in the enforcement of such laws;

49 (3) Arrest without warrant any person found in violation of such laws, or endeavoring  
50 to escape, or if for other cause there is likely to be a failure of enforcement of such laws  
51 for want of an officer to issue a warrant;

52 (4) Make investigations in the enforcement of such laws and in connection therewith to  
53 go upon any property outside of buildings, posted or otherwise, in the performance of  
54 such duties;

55 (5) Seize and take possession of all property which is declared contraband under such  
56 laws; and

57 (6) Carry firearms while performing their duties.

58 ~~(b)~~(c) The enforcement powers conferred in paragraph (1) of subsection (a) of this Code  
59 section upon agents of the bureau shall relate only to the enforcement of the criminal  
60 provisions relating to the manufacture, transportation, distribution, sale, or possession of  
61 liquor, wine, beer, alcoholic beverages, cigars, cigarettes, little cigars, cheroots, stogies,  
62 and loose or smokeless tobacco and shall not extend to regulatory matters with respect to  
63 such products under the jurisdiction of the state revenue commissioner.

64 (d) Upon discovery of a victim as provided for in paragraph (2) or (3) of subsection (a) of  
65 this Code section, a law enforcement agency shall provide notification to the bureau. In  
66 conducting investigations pursuant to such paragraph, the bureau, in its discretion, may use  
67 the assistance of any law enforcement agencies otherwise having jurisdiction over the  
68 geographical area pertaining to the death."

69

**SECTION 3.**

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