

## House Bill 475

By: Representatives Schofield of the 60<sup>th</sup>, Davis of the 87<sup>th</sup>, Scott of the 76<sup>th</sup>, Burnough of the 77<sup>th</sup>, McLeod of the 105<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 28 of the Official Code of Georgia Annotated, relating to  
2 general provisions regarding the General Assembly, so as to provide that committees of the  
3 General Assembly shall have the ability to subpoena persons to testify before such  
4 committees or for the production of documents for examination by the committees; to  
5 provide for procedures for the issuance of such subpoenas; to specify certain applications for  
6 subpoenas must meet additional requirements; to provide for the enforcement of such  
7 subpoenas; to provide that committees may swear witnesses who appear before such  
8 committees; to provide penalties for false testimony before such committees; to provide for  
9 related matters; to provide for an effective date; to repeal conflicting laws; and for other  
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Chapter 1 of Title 28 of the Official Code of Georgia Annotated, relating to general  
14 provisions regarding the General Assembly, is amended by revising Code Section 28-1-16,  
15 relating to issuance of subpoenas by Superior Court of Fulton County on behalf of the  
16 Committees on Ethics of the Senate and House of Representatives, as follows:

H. B. 475

17 "28-1-16.

18 (a) The chairperson or acting chairperson of each committee of the Senate and House of  
19 Representatives shall be authorized to administer an oath to persons testifying before such  
20 committee for such person to swear or affirm that such person shall testify truthfully.

21 ~~(a)(b) If any committee~~ ~~If the Committee on Ethics~~ of the Senate or House of  
22 Representatives determines that the effective functioning of the committee requires the  
23 issuance of compulsory process to secure the attendance of a witness or the production of  
24 documents and materials, or in the case of the Committee on Ethics of the Senate or House  
25 of Representatives if a person whose conduct is called into question in an investigation or  
26 other proceeding requests the issuance of such compulsory process, the chairperson or  
27 acting chairperson shall make application in writing to the presiding judge of the Superior  
28 Court of Fulton County for the issuance of an appropriate subpoena. Such application  
29 shall:

30 (1) Describe in general terms the investigation or other proceeding for which the  
31 issuance of subpoena is sought ~~and identify the provisions of the Senate or House rules~~  
32 ~~authorizing the committee to conduct such investigation or proceeding;~~

33 (2) In the case of process to secure the attendance of a witness, identify the witness; the  
34 general nature of the questions to be propounded to the witness; and the reasons for  
35 believing that the testimony of the witness is likely to be relevant to the authorized scope  
36 of the investigation or proceeding; or

37 (3) In the case of process to secure the production of documents and materials, identify  
38 the person to whom the subpoena is to be directed; the general nature of the documents  
39 and materials in question; and the reasons for believing that such documents and  
40 materials are likely to be relevant to the authorized scope of the investigation or  
41 proceeding;.

42 (c) In the case of the Committee on Ethics of the Senate or the House of Representatives,  
43 such application shall also:

44 ~~(4)~~(1) State whether confidential treatment of the application for and issuance of the  
45 subpoena is requested;

46 ~~(5)~~(2) If the application is submitted on behalf of a person whose conduct is called into  
47 question, be accompanied by any materials in support of the application which such  
48 person desires to have transmitted to the court with the application; and

49 ~~(6)~~(3) If the application is submitted on motion of the committee, be sought by the  
50 chairperson or acting chairperson only after notification to the person whose conduct is  
51 in issue that the subpoena will be sought.

52 ~~(b)~~(d) The presiding judge shall act on such application within 48 hours after it is  
53 presented to the judge. If the judge finds that the committee is acting within the scope of  
54 the authority granted to it by the rules of the Senate or House of Representatives and that  
55 the testimony or documents or materials sought to be elicited appear to be likely to be  
56 relevant to the authorized scope of the investigation or proceeding, the judge may cause an  
57 appropriate subpoena to be issued and transmitted to the chairperson or acting chairperson.  
58 If the judge deems it necessary or appropriate, the judge may hold a closed or open hearing  
59 with respect to his or her determination of this matter.

60 ~~(c)~~(e) When authorized by the rules of the Senate ~~and~~ or House of Representatives, the  
61 confidential treatment of material and information in the course of investigations and other  
62 proceedings of ~~the Committees on Ethics~~ any committee of the Senate or House of  
63 Representatives shall be recognized by law. Such confidential treatment shall be preserved  
64 as applicable in proceedings under this Code section as provided in this subsection. If the  
65 application for a subpoena requests confidential treatment, the court shall in any event take  
66 any and all steps necessary or appropriate to preserve the confidentiality of the application.  
67 The court may, but shall not be required to, issue the subpoena in such a manner as to  
68 preserve its confidentiality. If the court determines that a subpoena may be issued but  
69 confidential treatment is not warranted under the rules of the Senate or House of

70 Representatives, the judge shall so notify the chairperson or acting chairperson; and the  
71 chairperson or acting chairperson shall then have the option to:

72 (1) Abandon the request for a subpoena, in which case the application shall remain  
73 confidential; or

74 (2) Accept the determination of the court, in which case the subpoena shall issue, but the  
75 application and the issuance shall not be treated as confidential.

76 ~~(d)~~(f) In case of refusal to obey a subpoena issued under this Code section to any person,  
77 the Superior Court of Fulton County, upon application by the chairperson or acting  
78 chairperson, may issue to the person an order requiring ~~him or her to appear~~ an appearance  
79 before the court to show cause why ~~he or she~~ such person should not be held in contempt  
80 for refusal to obey the subpoena. Failure to obey a subpoena may be punished by the court  
81 as contempt of court.

82 ~~(e)~~(g) A subpoena issued under this Code section may be served at any place in this state  
83 and in any manner authorized in Code Section 24-13-24. Fees and mileage shall be paid  
84 and tendered as provided in Code Section 24-13-25, notwithstanding the general exemption  
85 of the state from tender of fees and mileage, and shall be in the form of a check issued by  
86 the Legislative Fiscal Office upon the written request of the chairperson or acting  
87 chairperson.

88 ~~(f)~~(h) Any decision of the court under this Code section shall be appealable in the same  
89 manner as provided by law for the appeal of a final judgment in a civil action."

90 **SECTION 2.**

91 This Act shall become effective upon its approval by the Governor or upon its becoming law  
92 without such approval.

93 **SECTION 3.**

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