

The House Committee on Public Safety and Homeland Security offers the following substitute to HB 641:

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 grant
3 the Georgia Bureau of Investigation powers and duties to identify and investigate violations
4 of Article 6 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated, the "Georgia
5 Computer Systems Protection Act," and other computer crimes; to provide for subpoena
6 power by the bureau for such investigations; to provide for a definition; to provide for related
7 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 revising
12 paragraphs (14) and (15) of, and by adding a new paragraph to, subsection (a) of Code
13 Section 35-3-4, relating to powers and duties of bureau generally, as follows:

14 "(14) Identify and investigate violations of Article 8 of Chapter 5 of Title 16; ~~and~~
15 (15)(A) Acquire, collect, analyze, and provide to the board any information which will
16 assist the board in determining a sexual offender's risk assessment classification in
17 accordance with the board's duties as specified in Code Section 42-1-14, including, but
18 not limited to, obtaining:

19 (i) Incident, investigative, supplemental, and arrest reports from law enforcement
20 agencies;

21 (ii) Records from clerks of court;

22 (iii) Records and information maintained by prosecuting attorneys;

23 (iv) Records maintained by state agencies, provided that any records provided by the
24 State Board of Pardons and Paroles that are classified as confidential state secrets
25 pursuant to Code Section 42-9-53 shall remain confidential and shall not be made

26 available to any other person or entity or be subject to subpoena unless declassified
 27 by the State Board of Pardons and Paroles; and

28 (v) Other documents or information as requested by the board.

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

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

31 (ii) 'Risk assessment classification' means the level into which a sexual offender is
 32 placed based on the board's assessment.

33 (iii) 'Sexual offender' has the same meaning as set forth in Code Section 42-1-12;
 34 and

35 (16) Identify and investigate violations of Article 6 of Chapter 9 of Title 16, the 'Georgia
 36 Computer Systems Protection Act.'"

37 **SECTION 2.**

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

39 "35-3-4.5.

40 (a) In any investigation of a violation of Article 6 of Chapter 9 of Title 16, the 'Georgia
 41 Computer Systems Protection Act,' the director, assistant director, or deputy director for
 42 investigations shall be authorized, with the consent of the Attorney General, district
 43 attorney, or other prosecuting attorney to issue a subpoena to compel the production of
 44 electronic communication service or remote communication service records or other
 45 information pertaining to a subscriber or customer of such service, exclusive of contents
 46 of the communication.

47 (b) Pursuant to subsection (a) of this Code section, a provider of electronic communication
 48 service or remote computing service shall disclose to the bureau the following information
 49 pertaining to the subscriber or customer:

50 (1) Name;

51 (2) Address;

52 (3) Local and long distance telephone connection records or records of session times and
 53 durations;

54 (4) Length of service, including the start date, and types of service requested;

55 (5) Telephone or instrument number of other subscriber number or identity, including
 56 any temporary assigned network address; and

57 (6) Means and source of payment for such service, including any credit card or bank
 58 account number of a subscriber to or customer of such service.

59 (c) A provider of electronic communication service or remote computing service shall not
 60 provide notification of the subpoena issued pursuant to paragraph (a) of this subsection to
 61 the subscriber or customer of such service.

62 (d) Upon the failure of a person without lawful excuse to obey a subpoena, the director,
63 assistant director, or the deputy director for investigations, through the Attorney General
64 or district attorney, may apply to a superior court having jurisdiction for an order
65 compelling compliance. Such person may object to the subpoena on grounds that it fails
66 to comply with this Code section or violates any constitutional or other legal right or
67 privilege of such person. The superior court having jurisdiction may issue an order
68 modifying or setting aside such subpoena or directing compliance with the original
69 subpoena. Failure to obey a subpoena issued under this Code section that is confirmed by
70 a superior court may be punished by the superior court of jurisdiction as contempt of court.
71 (e) As used in this Code section, the term 'electronic communication service' and 'remote
72 computing service' shall have the same meaning as set forth in Code Section 16-9-92."

73

SECTION 3.

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