

Senate Bill 388

By: Senators Carter of the 13th, Chance of the 16th, Heath of the 31st, Rogers of the 21st, Balfour of the 9th and others

AS PASSED SENATE

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 8 of Chapter 9 of Title 16 and Chapter 35 of the Official Code of Georgia
2 Annotated, relating to identity fraud and the Georgia Bureau of Investigation, respectively,
3 so as to provide the Georgia Bureau of Investigation with the authority to investigate certain
4 offenses involving identity fraud, including subpoena power; to change provisions relating
5 to investigations in identity fraud cases; to provide for an effective date; to provide for
6 related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 8 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to
10 identity fraud, is amended by revising Code Section 16-9-123, relating to investigations in
11 identity fraud cases, as follows:

12 "16-9-123.

13 The administrator appointed under Code Section 10-1-395 shall have the authority to
14 investigate any complaints of consumer victims regarding identity fraud. In conducting
15 such investigations the administrator shall have all investigative powers which are available
16 to the administrator under Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair Business
17 Practices Act of 1975.' If, after such investigation, the administrator determines that a
18 person has been a consumer victim of identity fraud in this state, the administrator shall,
19 at the request of the consumer victim, provide the consumer victim with certification of the
20 findings of such investigation. Copies of any and all complaints received by any law
21 enforcement agency of this state regarding potential violations of this article shall be
22 transmitted to the ~~Governor's Office of Consumer Affairs~~ Georgia Bureau of Investigation.
23 The ~~Governor's Office of Consumer Affairs~~ Georgia Bureau of Investigation shall maintain
24 a repository for all complaints in the State of Georgia regarding identity fraud. Information
25 contained in such repository shall not be subject to public disclosure. The information in
26 the repository may be transmitted to any other appropriate investigatory agency or entity.

1 Consumer victims of identity fraud may file complaints directly with the Governor's
 2 Office of Consumer Affairs, the Georgia Bureau of Investigation, or with local law
 3 enforcement. Employees of the Governor's Office of Consumer Affairs may communicate
 4 with consumer victims. Any and all transmissions authorized under this Code section may
 5 be transmitted electronically, provided that such transmissions are made through a secure
 6 channel for the transmission of such electronic communications or information, the
 7 sufficiency of which is acceptable to the Governor's Office of Consumer Affairs. Nothing
 8 in this Code section shall be construed to preclude any otherwise authorized law
 9 enforcement or prosecutorial agencies from conducting investigations and prosecuting
 10 offenses of identity fraud."

11 SECTION 2.

12 Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia
 13 Bureau of Investigation, is amended in subsection (a) of Code Section 35-3-4, relating to
 14 powers and duties of the Georgia Bureau of Investigation, by striking "or" at the end of
 15 paragraph (9), by replacing the period with "; or" at the end of paragraph (10), and by adding
 16 a new paragraph to read as follows:

17 "(11) Identify and investigate violations of Article 8 of Chapter 9 of Title 16."

18 SECTION 3.

19 Said chapter is further amended by revising paragraph (1) of subsection (a) of Code Section
 20 35-3-4.1, relating to subpoena for production of electronic communication service records
 21 for computer or electronic devices used in furtherance of certain offenses against minors, as
 22 follows:

23 "(a)(1) In any investigation of a violation of Code Section 16-12-100, 16-12-100.1, or
 24 16-12-100.2 involving the use of a computer or an electronic device in furtherance of an
 25 act related to a minor, or any investigation of a violation of Article 8 of Chapter 9 of Title
 26 16, the director, assistant director, or deputy director for investigations shall be authorized
 27 to issue a subpoena, with the consent of the Attorney General, to compel the production
 28 of electronic communication service or remote communication service records or other
 29 information pertaining to a subscriber or customer of such service, exclusive of contents
 30 of communications."

31 SECTION 4.

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

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SECTION 5.

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