

Senate Bill 336

By: Senators Unterman of the 45th, Miller of the 49th, Butler of the 55th and McKoon of the 29th

AS PASSED SENATE

**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 relevant to the Georgia Bureau of Investigation, so as to
3 prevent the disclosure of a subpoena issued for production of electronic communication
4 service records for computer or electronic devices that are used in furtherance of certain
5 offenses against minors or involving trafficking of persons for labor or sexual servitude, to
6 the subscriber or customer; to provide for related matters; to repeal conflicting laws; and for
7 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 relevant to the Georgia Bureau of Investigation, is amended in Code
12 Section 35-3-4.1, relating to subpoena for production of electronic communication service
13 records for computer or electronic device used in furtherance of certain offenses against
14 minors, by revising subsection (a) as follows:

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

23 (2) A provider of electronic communication service or remote computing service shall
24 disclose to the bureau the:

- 25 (A) Name;
26 (B) Address;

- 27 (C) Local and long distance telephone connection records, or records of session times
 28 and durations;
- 29 (D) Length of service, including the start date, and types of service utilized;
- 30 (E) Telephone or instrument number or other subscriber number or identity, including
 31 any temporarily assigned network address; and
- 32 (F) Means and source of payment for such service, including any credit card or bank
 33 account number of a subscriber to or customer of such service.
- 34 (3) A provider of electronic communication service or remote computing service shall
 35 not provide notification of the subpoena issued pursuant to paragraph (1) of this
 36 subsection to the subscriber or customer of such service."

37 SECTION 2.

38 Said article is further amended by revising Code Section 35-3-4.3, relating to subpoena
 39 power for investigations of violations involving trafficking of persons for labor or sexual
 40 servitude, as follows:

41 "35-3-4.3.

42 (a) In any investigation of a violation of Code Section 16-5-46 involving trafficking of
 43 persons for labor or sexual servitude, the director, assistant director, or deputy director for
 44 investigations shall be authorized to issue a subpoena, with the consent of the Attorney
 45 General, to compel the production of books, papers, documents, or other tangible things,
 46 including records and documents contained within, or generated by, a computer or any
 47 other electronic device.

48 (b) A provider of electronic communication service or remote computing service shall not
 49 provide notification of the subpoena issued pursuant to subsection (a) of this Code section
 50 to the subscriber or customer of such service.

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

59 SECTION 3.

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