

House Bill 88 (AS PASSED HOUSE AND SENATE)

By: Representatives Gaines of the 120<sup>th</sup>, Werkheiser of the 157<sup>th</sup>, Powell of the 33<sup>rd</sup>, Crowe of the 118<sup>th</sup>, Evans of the 57<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure,  
2 so as to enact the "Coleman-Baker Act"; to provide a short title; to provide for definitions;  
3 to provide for review of cold case murder files by law enforcement agencies; to provide for  
4 application of review; to provide for limitations of review; to provide for notification  
5 regarding review; to provide for the promulgation of regulations; to provide for reporting  
6 requirements; to provide for conflicting investigations; to provide for applicability; to  
7 provide for related matters; to provide for an effective date; to repeal conflicting laws; and  
8 for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
12 amended by adding a new chapter to read as follows:

13 "CHAPTER 21

14 17-21-1.

15 This chapter shall be known and may be cited as the 'Coleman-Baker Act.'

16 17-21-2.

17 As used in this chapter, the term:

18 (1) 'Agency' means a law enforcement agency with the jurisdiction to engage in the  
19 detection, investigation, or prosecution of a cold case murder.

20 (2) 'Cold case' means a homicide:

21 (A) That was committed more than three years prior to the date of an application by  
22 a designated person under subsection (c) of this Code section; and

23 (B) That was previously investigated by an agency; and

24 (C) For which all probative leads have been exhausted; or

25 (D) For which no likely perpetrator has been identified.

26 (3) 'Designated person' means an immediate family member or their designated legal  
27 representative who shall be a member in good standing with the Georgia State Bar.

28 (4) 'Immediate family member' means a parent, parent-in-law, grandparent,  
29 grandparent-in-law, sibling, spouse, child, or stepchild of a victim or any person who  
30 exercised in loco parentis control over a victim under the age of 18 years.

31 (5) 'Murder' means any criminal offense provided under Code Section 16-5-1.

32 (6) 'Probative lead' means evidence which is sufficiently useful to prove an element of  
33 the crime, which was not identified or determined as part of the previous investigation  
34 by the agency.

35 (7) 'Victim' means a natural person who died as a result of a cold case murder.

36 17-21-3.

37 (a) The head of an agency or his or her designee shall review the case file regarding a cold  
38 case murder upon written application by one designated person to determine if a full  
39 reinvestigation would result in:

40 (1) The identification of probative investigative leads; or

41 (2) A likely perpetrator.

42 (b) The review conducted under subsection (a) of this Code section shall include:

43 (1) An analysis of what investigative procedures may have been missed in the initial  
44 investigation;

45 (2) An assessment of whether witnesses should be interviewed or reinterviewed;

46 (3) An examination of physical evidence to see if all appropriate forensic testing and  
47 analysis was performed in the first instance or if additional testing might produce  
48 information relevant to the investigation; and

49 (4) An update of the case file using the most current investigative standards as of the date  
50 of the review to the extent it would help develop probative leads.

51 (c)(1) The agency shall conduct a full reinvestigation of the cold case murder at issue if  
52 in the agency's sole discretion the review of the case file concludes that a full  
53 reinvestigation of such cold case murder would result in additional, previously  
54 unidentified, probative leads or a likely perpetrator.

55 (2) A full reinvestigation shall include reviewing all evidence and analyzing those items  
56 which may contain forensic value collected in the cold case murder at issue for the  
57 purpose of developing probative leads or a likely perpetrator.

58 (3) The conclusion of a review of a cold case file conducted by the Georgia Bureau of  
59 Investigation under this Code section is subject to judicial review in accordance with  
60 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Any result following  
61 the conclusion of the reinvestigation of a cold case by any sheriff or police department

62 shall not be subject to the Administrative Procedure Act as pursuant to Code Section  
63 50-13-1.

64 (d)(1) A reinvestigation required under subsection (c) of this Code section shall not be  
65 solely conducted by a person who previously investigated the homicide at issue.

66 (2) Only one full reinvestigation shall be undertaken at any one time with respect to the  
67 same victim.

68 (3) If a full reinvestigation of a cold case murder is completed and a likely perpetrator  
69 is not identified at its conclusion, no additional case file review or full reinvestigation  
70 shall be undertaken with regard to that cold case murder for a period of five years  
71 beginning on the date of the conclusion of the reinvestigation, unless there is newly  
72 discovered, materially significant evidence.

73 (e)(1) Each agency shall develop a written application to be used by a designated person  
74 to request a case file review under subsection (a) of this Code section.

75 (2) Not later than one year after the date of enactment of this chapter, the head of each  
76 agency or his or her designee shall promulgate procedures to ensure compliance by the  
77 agency with the provisions described in this chapter.

78 (f) The agency shall provide in writing to the designated person who made the application  
79 as soon as reasonably possible confirmation of the agency's receipt of the application. The  
80 agency's written confirmation shall include the process to submit a complaint to and contact  
81 information for the agency's unit responsible for internal investigations involving  
82 misconduct allegations.

83 (g)(1) In any case in which a written application for review has been received under this  
84 chapter by the investigating agency, review shall be declined where the case does not  
85 satisfy any criteria under paragraph (2) of Code Section 17-21-2 for a cold case murder.

86 (2) In such a case, the head of the agency or his or her designee shall issue a written  
87 letter, with a copy provided to the designated person who made the application under  
88 paragraph (1) of this subsection, stating that final review is not necessary.

- 89 (h) Not later than six months after the receipt of the written application, the agency shall  
90 complete its case file review and conclude whether or not a full reinvestigation is warranted  
91 as provided in subsection (a) of this Code section.
- 92 (i) The agency may extend the time limit under subsection (h) of this Code section once  
93 for a period of time not to exceed six months if the agency makes a finding that the number  
94 of case files to be reviewed make it impracticable to comply with such limit without  
95 unreasonably taking resources from other law enforcement activities. For cases for which  
96 the time limit is extended, the agency shall provide notice and an explanation of its  
97 reasoning to one designated person who filed the written application for review.
- 98 (j) The procedures promulgated under subsection (e) of this Code section shall require a  
99 course of training by an instructor certified by the Georgia Peace Officer Standards and  
100 Training Council as provided in Code Section 35-8-8 for appropriate employees and  
101 officers within the agency regarding the procedures, responsibilities, and obligations  
102 required under this chapter.
- 103 (k) The Carl Vinson Institute of Government of the University of Georgia shall establish  
104 and maintain a case tracking system and searchable public website that includes the  
105 following information about cold case murder investigations provided under this chapter:
- 106 (1) The number of written applications filed with the agency as provided in  
107 subsection (e) of this Code section;
- 108 (2) The number of extensions granted and an explanation of reasons provided under  
109 subsection (i) of this Code section;
- 110 (3) The number of full reinvestigations initiated and closed as provided in subsection (h)  
111 of this Code section; and
- 112 (4) Statistical information on the aggregate number of cold cases, suspects, arrests,  
113 indictments, and convictions.
- 114 (1)(1) If more than one agency conducted the initial investigation of a cold case murder,  
115 each agency shall coordinate their case file review or full reinvestigation such that there

116 is only one joint case file review or full reinvestigation occurring at a time as provided  
117 in paragraph (2) of subsection (d) of this Code section.

118 (2) If more than one agency conducted the initial investigation of a cold case murder, if  
119 any involved agency conducts a full reinvestigation and a likely perpetrator is not  
120 identified at its conclusion, no additional case file review or full reinvestigation is  
121 required to be undertaken with regard to that cold case murder for a period of five years  
122 by any involved agency beginning on the date of the conclusion of the reinvestigation,  
123 unless there is newly discovered, materially significant evidence.

124 (m) The provisions of this chapter are subject to the availability of funds specifically  
125 appropriated by the General Assembly, or other relevant political subdivision of the state,  
126 for this purpose, for all costs incurred by state and local authorities.

127 17-21-4.

128 (a) This Code section shall apply in the case of any cold case murder occurring on or after  
129 January 1, 1970.

130 (b) This chapter shall authorize a coroner or medical examiner to issue a death certificate  
131 as provided by Code Section 45-16-24, with a nonspecific cause of death and manner of  
132 homicide if, at the sole discretion of the coroner or medical examiner, the release of such  
133 information would not hinder the homicide investigation.

134 (c) In a case where the cause of death is listed as nonspecific homicidal means or  
135 undetermined and subsequent investigative information is provided sufficient to determine  
136 a specific cause of death, the coroner or medical examiner shall have six months from the  
137 date of final disposition of the investigation to file an amended death certificate to include  
138 the official cause of death.

139 (d) Nothing in this Code section shall prevent the probate or administration of the estate  
140 of a homicide victim or the distribution of any death benefits to the beneficiaries due to the  
141 withholding of the cause of death of a homicide victim."

142 **SECTION 2.**

143 This Act shall become effective on July 1, 2023.

144 **SECTION 3.**

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