

Senate Bill 175

By: Senator Hamrick of the 30th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 16 of Title 17 of the Official Code of Georgia Annotated,
2 relating to discovery in felony cases, so as to clarify the provisions relating to oral scientific
3 reports; to make such article applicable to sentencing hearings; to provide for related matters;
4 to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 1 of Chapter 16 of Title 17 of the Official Code of Georgia Annotated, relating to
8 discovery in felony cases, is amended by adding a new subsection (e) to Code Section
9 17-16-2, relating to applicability, to read as follows:

10 "(e) The provisions of this article shall apply to sentencing hearings conducted pursuant
11 to Code Section 17-10-2, including, but not limited to, cases in which the death penalty or
12 life without parole may be imposed pursuant to Article 2 of Chapter 10 of this title."

13 **SECTION 2.**

14 Said article is further amended by striking paragraph (4) of subsection (a) of Code Section
15 17-16-4, relating to disclosures required of prosecuting attorney and defendant, and inserting
16 in lieu thereof a new paragraph (4) to read as follows:

17 "(4) The prosecuting attorney shall, no later than ten days prior to trial, or as otherwise
18 ordered by the court, permit the defendant at a time agreed to by the parties or ordered
19 by the court to inspect and copy or photograph a report of any physical or mental
20 examinations and of scientific tests or experiments, including a summary of the basis for
21 the expert opinion rendered in the report, or copies thereof, if the state intends to
22 introduce in evidence in its case-in-chief or in rebuttal the results of the physical or
23 mental examination or scientific test or experiment. If the report is oral or partially oral,
24 the prosecuting attorney shall furnish in writing all relevant and material portions of such
25 report by serving opposing counsel with such portions no later than ten days prior to trial.

1 Nothing in this Code section shall require the disclosure of any other material, note, or
2 memorandum relating to the psychiatric or psychological treatment or therapy of any
3 victim or witness."

4 **SECTION 3.**

5 Said article is further amended by striking paragraph (2) of subsection (b) of Code Section
6 17-16-4, relating to disclosures required of prosecuting attorney and defendant, and inserting
7 in lieu thereof a new paragraph (2) to read as follows:

8 "(2) The defendant shall ~~within ten days of timely compliance by the prosecuting~~
9 ~~attorney but,~~ no later than ~~five~~ ten days prior to trial, or as otherwise ordered by the court,
10 permit the prosecuting attorney at a time agreed to by the parties or as ordered by the
11 court to inspect and copy or photograph a report of any physical or mental examinations
12 and of scientific tests or experiments, including a summary of the basis for the expert
13 opinion rendered in the report, or copies thereof, if the defendant intends to introduce in
14 evidence in the defense's case-in-chief or rebuttal the results of the physical or mental
15 examination or scientific test or experiment. If the report is oral or partially oral, the
16 defendant shall furnish in writing all relevant and material portions of such report by
17 -serving opposing counsel with such portions no later than ten days prior to trial. Nothing
18 in this Code section shall require the disclosure of any other material, note, or
19 memorandum relating to the psychiatric or psychological treatment or therapy of any
20 defendant or witness."

21 **SECTION 4.**

22 Said article is further amended by adding a new Code Section 17-16-5.1 to read as follows:

23 "17-16-5.1.

24 Within ten days after the state provides the defendant with such evidence in aggravation
25 as provided in Code Section 17-10-2, or as otherwise ordered by the court, the defendant
26 shall serve upon the prosecuting attorney notice of such evidence in mitigation as the
27 defendant intends to rely upon at sentencing."

28 **SECTION 5.**

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