

The Senate Judiciary Committee offered the following substitute to SB 175:

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 clarify the provisions relating to oral scientific reports; to provide for discovery with
3 regard to sentencing hearings; to provide for related matters; to repeal conflicting laws; and
4 for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

6 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
7 amended by striking subsection (a) of Code Section 17-10-2, relating to conduct of
8 presentence hearings in felony cases, and inserting in lieu thereof a new subsection (a) to
9 read as follows:
10

11 "(a) Except in cases in which the death penalty or life without parole may be imposed,
12 upon the return of a verdict of 'guilty' by the jury in any felony case, the judge shall dismiss
13 the jury and shall conduct a presentence hearing at which the only issue shall be the
14 determination of punishment to be imposed. In the hearing the judge shall hear additional
15 evidence in extenuation, mitigation, and aggravation of punishment, including the record
16 of any prior criminal convictions and pleas of guilty or nolo contendere of the defendant,
17 or the absence of any prior conviction and pleas, provided that only such evidence in
18 aggravation as the state has made known to the defendant prior to the defendant's trial and
19 only such evidence in extenuation or mitigation as the defendant has made known to the
20 state prior to the commencement of the sentencing hearing shall be admissible. The judge
21 shall also hear argument by the defendant or the defendant's counsel and the district
22 attorney, as provided by law, regarding the punishment to be imposed. The district attorney
23 shall open and the defendant or the defendant's counsel shall conclude the argument. Upon
24 the conclusion of the evidence and arguments, the judge shall impose the sentence or shall
25 recess the trial for the purpose of taking the sentence to be imposed under advisement. The
26 judge shall fix a sentence within the limits prescribed by law."

