

Senate Bill 441

By: Senators Hamrick of the 30th, Smith of the 52nd, Hall of the 22nd and Meyer von Bremen of the 12th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to
2 sentence and punishment for crimes, so as to provide that the superior court sentence review
3 panel shall be required to provide an opinion or memorandum of decision when a sentence
4 is reduced; to clarify sentences subject to review; to exempt sentences based on negotiated
5 pleas from review; to provide for related matters; to provide for applicability; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to sentence and
10 punishment for crimes, is amended by striking subsections (c), (d), and (f) of Code Section
11 17-10-6, relating to the review of certain sentences of incarceration by a three-judge panel,
12 and inserting in lieu thereof new subsections (c), (d), (f), and (g) to read as follows:

13 "(c) The three-judge panel provided for by this Code section shall have the authority to
14 review sentences upon application of the defendants in such cases. In the review of the
15 sentences the defendant and the district attorney shall have the right to present written
16 argument relative to the sentence imposed and the harshness or justification thereof. If, in
17 the opinion of the panel, the sentence imposed by the trial judge is too harsh or severe in
18 light of all of the circumstances surrounding the case and the defendant, and in light of the
19 defendant's past history, the panel shall have the authority to issue an order reducing the
20 sentence originally imposed by the trial judge. If the panel reduces a sentence imposed by
21 the trial judge, the panel shall issue an opinion or memorandum of decision stating the facts
22 specially that form the basis for the reduction of the sentence. The panel shall not have the
23 authority, however, to reduce any sentence to probation or to suspend any sentence. ~~The~~
24 ~~panel shall not be required to file written opinions but shall file a copy of any order or~~
25 ~~remittitur reducing a sentence with the superior court which originally imposed the~~
26 ~~sentence~~ The order of the panel, together with the opinion or memorandum of decision and

1 the remittitur, shall be certified by the panel to the trial court under the seal of the panel and
2 shall become effective upon being filed with the trial court.

3 (d) The reduction of a sentence or the refusal to reduce a sentence by the panel shall not
4 be reviewable. The provisions for review of sentences provided by this Code section shall
5 not be deemed to affect the right to appeal or any practices, procedures, or time limitations
6 relative to appeals to appellate courts. A defendant shall not have the right to file more than
7 one application for a review of a sentence, and any order issued by the panel reducing or
8 refusing to reduce any sentence covered by an application shall be binding on the defendant
9 and the superior court which imposed the sentence."

10 "(f) This Code section shall not apply to sentences imposed in misdemeanor cases or cases
11 in which a sentence of life sentence or life without parole is imposed for murder.

12 (g) If the record of the proceedings in the trial court establishes that the sentence imposed
13 by the trial court was based on a negotiated plea of guilty to which the prosecution and the
14 defendant, represented by an attorney, agreed prior to the imposition of the sentence, the
15 panel may not reduce such sentence, in whole or in part."

16 SECTION 2.

17 This Act shall become effective on July 1, 2004, and shall apply to all applications for
18 sentence review pending on July 1, 2004, and to all applications for sentence review filed on
19 and after July 1, 2004.

20 SECTION 3.

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