

The House Committee on Special Judiciary offers the following substitute to HB 1335:

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 provide that the superior court sentence review panel shall be required to provide an
3 opinion or memorandum of decision when a sentence is reduced; to clarify sentences subject
4 to review; to change certain provisions relating to the crime victims' bill of rights concerning
5 certain notifications; 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, the victim, and the district attorney shall have the right to present
16 written argument relative to the sentence imposed and the harshness or justification thereof
17 and shall submit such argument within 20 days of the date the application is docketed with
18 the panel. It shall be the duty of the prosecuting attorney to notify the victim that the
19 defendant has filed an application for sentence review. The prosecuting attorney shall not
20 be required to notify the victim unless the victim has expressed a desire for such
21 notification and has provided the prosecuting attorney with a current address and telephone
22 number. The prosecuting attorney's failure to notify the victim shall not invalidate the
23 decision of the panel. The panel shall consider the victim's written statement in its review
24 of the defendant's sentence. If, in the opinion of the panel, the sentence imposed by the trial
25 judge is too harsh or severe in light of all of the circumstances surrounding the case and the
26 defendant, and in light of the defendant's past history, the panel shall have the authority to

1 issue an order reducing the sentence originally imposed by the trial judge. If the panel
 2 reduces a sentence imposed by the trial judge, the panel shall issue an opinion or
 3 memorandum of decision stating the facts specially that form the basis for the reduction of
 4 the sentence. The panel shall not have the authority, however, to reduce any sentence to
 5 probation or to suspend any sentence. ~~The panel shall not be required to file written~~
 6 ~~opinions but shall file a copy of any order or remittitur reducing a sentence with the~~
 7 ~~superior court which originally imposed the sentence~~ The order of the panel, together with
 8 the opinion or memorandum of decision and the remittitur, shall be certified by the panel
 9 to the trial court under the seal of the panel and shall become effective upon being filed
 10 with the trial court.

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

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

20 SECTION 2.

21 Said title is further amended by striking subsection (a) of Code Section 17-17-5, relating to
 22 notification to victims under the "Crime Victims' Bill of Rights," and inserting in lieu thereof
 23 the following:

24 "(a) All victims, wherever practicable, shall be entitled to notification as defined by
 25 paragraph (7) of Code Section 17-17-3 of the accused's arrest, of the accused's release
 26 from custody, and of any judicial proceeding at which the release of the accused will be
 27 considered. All victims, wherever practicable, shall also be entitled to notification as
 28 defined by paragraph (7) of Code Section 17-17-3 of the defendant's application for
 29 sentence review. The prosecuting attorney shall not be required to notify the victim of the
 30 defendant's application for sentence review unless the victim has expressed a desire for
 31 such notification. No such notification shall be required unless the victim provides a
 32 landline telephone number other than a pocket pager or electronic communication device
 33 number to which such notice can be directed."

1 **SECTION 3.**

2 This Act shall become effective on July 1, 2004, and shall apply to all applications for
3 sentence review pending on July 1, 2004, and to all applications for sentence review filed on
4 and after July 1, 2004.

5 **SECTION 4.**

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