

The Senate Special Judiciary Committee offered the following substitute to SB 151:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 17-10-1.2 and Article 2 of Chapter 9 of Title 42 of the Official Code
2 of Georgia Annotated, relating to an oral victim impact statement and grants of pardons,
3 paroles, and other relief, respectively, so as to provide courts and the State Board of Pardons
4 and Parole greater input from crime victims, their families, and other interested witnesses;
5 to provide for victim notification of parole board hearings; to provide for related matters; to
6 repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 17-10-1.2 of the Official Code of Georgia Annotated, relating to an oral victim
10 impact statement, is amended by revising subsection (a) as follows:

11 "(a)(1) Except as provided in paragraph (2) of this subsection, in ~~in~~ all cases in which the
12 death penalty may be imposed, subsequent to an adjudication of guilt and in conjunction
13 with the procedures in Code Section 17-10-30, the court ~~may~~ shall allow evidence from
14 the family of the victim, or such other witness having personal knowledge of the victim's
15 personal characteristics and the emotional impact of the crime on the victim, the victim's
16 family, or the community. Such evidence shall be given in the presence of the defendant
17 and of the jury and shall be subject to cross-examination.

18 (2) The admissibility of the evidence described in paragraph (1) of this subsection ~~The~~
19 ~~admissibility of such evidence~~ shall be in the sole discretion of the judge and in any event
20 shall be permitted only in such a manner and to such a degree as not to inflame or unduly
21 prejudice the jury or unduly burden a witness.

22 ~~(2)(3)~~ (3) In all cases other than those in which the death penalty may be imposed, prior to
23 fixing of the sentence as provided for in Code Section 17-10-1 or the imposing of life
24 imprisonment as mandated by law, and before rendering the appropriate sentence,
25 including any order of restitution, the court, ~~within its discretion,~~ may shall allow
26 evidence from the victim, the family of the victim, or such other witness having personal

27 knowledge of the impact of the crime on the victim, the family of the victim, or the
 28 community. Such evidence shall be given in the presence of the defendant and shall be
 29 subject to cross-examination. The admissibility of the evidence described in this
 30 paragraph shall be in the sole discretion of the judge and in any event shall be permitted
 31 only in such a manner as to allow for cross-examination by the defendant and to such a
 32 degree as not to unduly prejudice the defendant or unduly burden a witness.

33 (4) Evidence presented pursuant to this subsection may be in the form of, but not limited
 34 to, a written statement, an audiotaped or videotaped statement, a teleconference, other
 35 electronic means, or a statement made via speakerphone with an attorney's verification
 36 of the speaker's identity. Photographs of the victim may be included with any evidence
 37 presented pursuant to this subsection. Where evidence is presented with an attorney's
 38 verification, such attorney shall be subject to cross-examination."

39 SECTION 2.

40 Article 2 of Chapter 9 of Title 42 of the Official Code of Georgia Annotated, relating to
 41 grants of pardons, paroles, and other relief, is amended by revising Code Section 42-9-43,
 42 relating to information to be considered by the board, conduct of investigation and
 43 examination, and determination as to grant of relief, as follows:

44 "42-9-43.

45 (a) The board, in considering any case within its power, shall cause to be brought before
 46 it all pertinent information on the person inmate in question. Included therein shall be:

47 (1) A report by the superintendent, warden, or jailer of the jail or state or county
 48 correctional institution in which the person inmate has been confined upon the conduct
 49 of record of the person inmate while in such jail or state or county correctional institution;

50 (2) The results of such physical and mental examinations as may have been made of the
 51 person inmate;

52 (3) The extent to which the person inmate appears to have responded to the efforts made
 53 to improve his or her social attitude;

54 (4) The industrial record of the person inmate while confined, the nature of his or her
 55 occupations while so confined, and a recommendation as to the kind of work ~~he~~ the
 56 inmate is best fitted to perform and at which he or she is most likely to succeed when and
 57 if he or she is released; ~~and~~

58 (5) The educational programs in which the person inmate has participated and the level
 59 of education which the person inmate has attained based on standardized reading tests;
 60 and

61 (6) The written, oral, audiotaped, or videotaped testimony of the victim, the victim's
 62 family, or a witness having personal knowledge of the victim's personal characteristics.

63 (b) The board may also make such other investigation as it may deem necessary in order
64 to be fully informed about the person inmate.

65 ~~(b)~~(c) Before releasing any person inmate on parole, the board may have the person inmate
66 appear before it and may personally examine him or her. Thereafter, upon consideration,
67 the board shall make its findings and determine whether or not the person inmate shall be
68 granted a pardon, parole, or other relief within the power of the board; and the board shall
69 determine the terms and conditions thereof. Notice of the determination shall be given to
70 the person inmate and to the correctional official having ~~him~~ such inmate in custody.

71 ~~(c)~~(d) If a person an inmate is granted a pardon or a parole, the correctional officials
72 having the person inmate in custody, upon notification thereof, shall inform him or her of
73 the terms and conditions thereof and shall, in strict accordance therewith, release the person
74 inmate.

75 (e) The board shall send written notification of the parole decision to the victim or, if the
76 victim is no longer living, to the family of the victim."

77 **SECTION 3.**

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