

The House Committee on Judiciary Non-Civil offers the following substitute to SB 127:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 17-17-15 of the Official Code of Georgia Annotated, relating to the  
2 failure to provide notice not rendering responsible person liable or comprising a basis for  
3 error, the chapter not conferring standing, existing rights not affected, and waiver of rights  
4 by victim, so as to allow a victim to file a motion in a criminal case to assert certain rights;  
5 to provide for procedure; to provide for related matters; to provide for a contingent effective  
6 date and automatic repeal; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 17-17-15 of the Official Code of Georgia Annotated, relating to the failure to  
10 provide notice not rendering responsible person liable or comprising a basis for error, the  
11 chapter not conferring standing, existing rights not affected, and waiver of rights by victim,  
12 is amended by revising subsection (c) as follows:

13 "(c)(1) Except as provided in this subsection, this chapter shall ~~This chapter does not~~  
14 ~~confer upon a victim any standing to participate as a party in a criminal proceeding or to~~  
15 ~~contest the disposition of any charge.~~

16 (2)(A) When a victim has made a written request to the prosecuting attorney to be  
17 notified of all proceedings and has provided contact information to the prosecuting  
18 attorney, and such victim asserts that he or she was not provided notification of a  
19 proceeding, he or she may file a motion requesting to be heard on such matter. When  
20 a victim has made a written request to the prosecuting attorney to be heard according  
21 to this chapter in a criminal proceeding and alleges that he or she was not given such  
22 opportunity by the prosecuting attorney or court, such victim may file a motion  
23 requesting to be heard on such matter. When a victim alleges that any other provision  
24 of this chapter has not been complied with, such victim may file a motion alleging such  
25 deficiency and requesting to be heard on such matter.

26 (B) Such motion shall be filed as soon as possible, but not later than 20 days after the  
27 claimed denial. Such motion shall be filed in the criminal case, and the victim shall  
28 provide a copy of the motion and hearing notice to the prosecuting attorney and the  
29 defendant.

30 (3) The court may set the victim's motion for a hearing or issue an order disposing of the  
31 motion. If the court conducts a hearing, the prosecuting attorney and the defendant shall  
32 have a right to be present at such hearing.

33 (4) The court's decision on all issues of fact and law raised in a motion under this  
34 subsection shall be final and shall not be subject to appeal.

35 (5) A motion filed pursuant to this subsection shall be the only means of raising or  
36 enforcing the rights provided under this chapter or Article I, Section I, Paragraph XXX  
37 of the Constitution of Georgia.

38 (6) When the victim's motion alleges potential failure by the prosecuting attorney, the  
39 prosecuting attorney may recuse in accordance with Code Section 15-18-5 or 15-18-65,  
40 as applicable. When the victim's motion alleges potential failure by the court, the judge  
41 may recuse in accordance with Code Section 15-1-8."

42 **SECTION 2.**

43 This Act shall become effective on January 1, 2019, provided that a constitutional  
44 amendment is passed by the General Assembly and is ratified by the voters in the  
45 November, 2018, General Election amending the Constitution of Georgia so as to provide  
46 certain rights to victims against whom a crime has allegedly been perpetrated and allow  
47 victims to assert such rights. If such an amendment to the Constitution of Georgia is not so  
48 ratified, then this Act shall not become effective and shall stand repealed by operation of law  
49 on January 1, 2019.

50 **SECTION 3.**

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