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CRIMINAL PROCEDURE Sentencing: Victim Impact Statement

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CRIMINAL PROCEDURE

Sentencing: Victim Impact Statement

CODE SECTION:	O.C.G.A. § 17-10-1.1 (new), 17-10-1.2 (new) and 42-9-47 (amended)
BILL NUMBER:	SB 75
ACT NUMBER:	559
SUMMARY:	The Act provides for consideration of a victim impact statement prior to sentencing by the trial judge and includes the victim among those who must be notified when an individual is granted parole.

SB 75

SB 75 adds two new Code sections to Title 17. Sections 17-10-1.1 and 17-10-1.2 permit the judge to consider a victim impact statement prior to sentencing or ordering restitution in all cases except those in which life imprisonment or the death penalty must be imposed.[1] This statement may be considered if the defendant in committing a felony caused "physical, psychological, or economic injury to the victim."[2] If the defendant committed a misdemeanor, serious physical injury or death must be shown.[3]

The victim's statement must do the following: (1) identify the victim and the person who committed the crime; (2) itemize any ecomonic loss the victim suffered resulting from the offense; (3) identify and specify the seriousness and permanence of any physical injury the victim suffered; (4) describe any change in the victim's welfare or family relationships resulting from the offense; (5) "identify any request for psychological services initiated by the victim or the victim's family"; and (6) any other information which is related to the impact of the offense.[4]

If the victim is unable to prepare the statement, a representative or the victim's attorney may do so.[5] The presentation of the impact statement to

1. SB 75 (HCS), 1985 Ga. Gen. Assem. § 1. (The House Committee Substitute changed the original Senate Bill by exempting cases where the death penalty or life imprisonment must be imposed.)
2. O.C.G.A. § 17-10-1.1(a)(1) (Supp. 1985).
3. O.C.G.A. § 17-10-1.1(a)(2) (Supp. 1985).
4. O.C.G.A. § 17-10-1.1(b) (Supp. 1985).
5. O.C.G.A. § 17-10-1.1(c) (Supp. 1985) (The State Board of Pardons and Paroles is to provide a form document to prosecuting attorneys which covers the elements noted in O.C.G.A. § 17-10-1.1(b) (Supp. 1985)).

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the trial judge is the responsibility of the prosecution. However, failure to comply with the requirements of this section does not invalidate the sentencing process.

O.C.G.A. § 17-10-1.2 covers essentially the same provisions. It gives the trial court discretion to permit the victim or his representative to make an oral impact statement in the presence of the defendant. Without regard to whether the victim impact statement is in oral or written form, defendants may rebut the victim's statement. The procedure for rebuttal is determined by court rules.[6]

SB 75 also amends O.C.G.A. § 42-9-47 by requiring that the victim be included among those who are notified when parole has been granted. The victim must be notified within seventy-two hours of the Parole Board's decision. Under O.C.G.A. § 17-10-1.1(c) the victim must file a copy of his address with the State Board of Pardons and Paroles and notify the Board of any change of address.

6. O.C.G.A. §§ 17-10-1.1(e) and 17-10-1.2(c) (Supp. 1985).

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