

Senate Bill 127

By: Senators Kennedy of the 18th, Shafer of the 48th, Albers of the 56th, Black of the 8th, Kirk of the 13th and others

AS PASSED

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.