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CRIMINAL PROCEDURE Death Penalty: Date of Imposition

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CRIMINAL PROCEDURE

Death Penalty: Date of Imposition

CODE SECTIONS:	O.C.G.A. §§ 17-10-34 (amended) and 17-10-40 (amended)
BILL NUMBER:	HB 159
ACT NUMBER:	738
SUMMARY:	The Act authorizes procedures for setting a time and date of execution in death penalty cases and gives the State Board of Pardons and Paroles power to grant a stay of execution.

History

Under prior law the superior court judge in the sentencing court set a date for execution in death penalty cases.[1] The Department of Offender Rehabilitation set the time of execution.[2] However, if the execution was not carried out on the date designated by the court, rescheduling an execution date could take as long as one to three months because a number of state agencies were involved. Prior to the 1985 amendments, the Governor had the power to grant a stay of execution.[3]

HB 159

O.C.G.A. § 17-10-34 authorizes the sentencing court to set a seven day period for execution which begins and ends at noon on the specified dates. If the execution is not carried out within this period, O.C.G.A. § 17-10-40(b) permits a superior court judge in the county where the case was tried to set a new seven day period. The day and time of execution are initially set by the Department of Corrections and may be reset by it within the seven day period if necessary. O.C.G.A. § 17-10-40(a) gives the State Board of Pardons and Paroles the power to grant a stay of execution.

1. O.C.G.A. § 17-10-34 (1982).
2. 1980 Op. Att'y Gen. No. 80-86.
3. O.C.G.A. § 17-10-40 (1982).

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