

O.C.G.A. § 17-17-9

Current through Acts 2023, No. 23-353 of the 2023 Session, but not including corrections and changes made to the 2023 session laws by the Code Commissioner.

Official Code of Georgia Annotated > TITLE 17 Criminal Procedure (Chs. 1 — 21) > CHAPTER 17 Crime Victims' Bill of Rights (§§ 17-17-1 — 17-17-16)

17-17-9. Exclusion of testifying victim from criminal proceedings; separate victims' waiting areas.

(a) A victim has the right to be present at all criminal proceedings in which the accused has the right to be present. A victim or member of the immediate family of a victim shall not be excluded from any portion of any hearing, trial, or proceeding pertaining to the offense based solely on the fact that such person is subpoenaed to testify unless it is established that such victim or family member is a material and necessary witness to such hearing, trial, or proceeding and the court finds that there is a substantial probability that such person's presence would impair the conduct of a fair trial. The provisions of this Code section shall not be construed as impairing the authority of a judge to remove a person from a trial or hearing or any portion thereof for the same causes and in the same manner as the rules of court or law provides for the exclusion or removal of the accused. A motion to exclude a victim or family members from the courtroom for any reason other than misconduct shall be made and determined prior to jeopardy attaching.

(b) A victim of a criminal offense who has been or may be subpoenaed to testify at such hearing or trial shall be exempt from the provisions of [Code Section 24-6-615](#) requiring sequestration; provided, however, that the court shall require that the victim be scheduled to testify as early as practical in the proceedings.

(c) If the victim is excluded from the courtroom, the victim shall have the right to wait in an area separate from the accused, from the family and friends of the accused, and from witnesses for the accused during any judicial proceeding involving the accused, provided that such separate area is available and its use in such a manner practical. If such a separate area is not available or practical, the court, upon request of the victim made through the prosecuting attorney, shall attempt to minimize the victim's contact with the accused, the accused's relatives and friends, and witnesses for the accused during any such judicial proceeding.

History

Code 1981, § 17-17-9, enacted by Ga. L. 1995, p. 385, § 2; [Ga. L. 2010, p. 214, § 12/HB 567](#); Ga. L. 2011, p. 99, § 35/HB 24; [Ga. L. 2014, p. 866, § 17/SB 340](#).