
By: Chairman, Judiciary Committee (Departmental - Public Safety and Correctional Services)

Introduced and read first time: January 17, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Habeas Corpus - Appeals**

3 FOR the purpose of substituting an application for leave to appeal for the right of appeal
4 in certain habeas corpus cases; and limiting the right of review of the Maryland
5 Court of Appeals.

6 BY repealing and reenacting, without amendments,
7 Article 41 - Governor - Executive and Administrative Departments
8 Section 2-210
9 Annotated Code of Maryland
10 (1993 Replacement Volume and 1995 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Courts and Judicial Proceedings
13 Section 12-202
14 Annotated Code of Maryland
15 (1995 Replacement Volume and 1995 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article - Courts and Judicial Proceedings
18 Section 12-301
19 Annotated Code of Maryland
20 (1995 Replacement Volume and 1995 Supplement)

21 BY adding to
22 Article - Courts and Judicial Proceedings
23 Section 12-302(h)
24 Annotated Code of Maryland
25 (1995 Replacement Volume and 1995 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

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1 **Article 41 - Governor - Executive and Administrative Departments**

2 2-210.

3 No person arrested upon such warrant shall be delivered over to the agent whom
4 the executive authority demanding him shall have appointed to receive him unless he
5 shall be first taken forthwith before a judge of a court of record in this State, who shall
6 inform him of the demand made for his surrender and of the crime with which he is
7 charged, and that he has the right to demand and procure legal counsel; and if the
8 prisoner or his counsel shall state that he or they desire to test the legality of his arrest,
9 the judge of such court of record shall fix a reasonable time to be allowed him within
10 which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof,
11 and of the time and place of hearing thereon, shall be given to the prosecuting officer of
12 the county or the City of Baltimore in which the arrest is made and in which the accused
13 is in custody, and to the said agent of the demanding state. If the application for a writ of
14 habeas corpus after an extradition hearing only, is denied by the trial court, the denial
15 may be appealed to the Court of Special Appeals.

16 **Article - Courts and Judicial Proceedings**

17 12-202.

18 A review by way of certiorari may not be granted by the Court of Appeals in a case
19 or proceeding in which the Court of Special Appeals has denied or granted:

20 (1) Leave to prosecute an appeal in a post conviction proceeding;

21 (2) Leave to appeal from a refusal to issue a writ of habeas corpus sought
22 for the purpose of determining the right to bail or the appropriate amount of bail OR
23 SOUGHT FOR A PURPOSE OTHER THAN TO CHALLENGE THE LEGALITY OF A
24 CONVICTION OF A CRIME OR SENTENCE OF DEATH OR IMPRISONMENT;

25 (3) Leave to appeal in an inmate grievance [commission] proceeding;

26 (4) Leave to appeal from a final judgment entered following a plea of guilty
27 in a circuit court; or

28 (5) Leave to appeal from an order of a circuit court revoking probation.

29 12-301.

30 Except as provided in § 12-302 of this subtitle, a party may appeal from a final
31 judgment entered in a civil or criminal case by a circuit court. The right of appeal exists
32 from a final judgment entered by a court in the exercise of original, special, limited,
33 statutory jurisdiction, unless in a particular case the right of appeal is expressly denied by
34 law. In a criminal case, the defendant may appeal even though imposition or execution of
35 sentence has been suspended. In a civil case, a plaintiff who has accepted a remittitur may
36 cross-appeal from the final judgment.

37 12-302.

38 (H) SECTION 12-301 OF THIS SUBTITLE DOES NOT PERMIT AN APPEAL FROM
39 AN ORDER OF A CIRCUIT COURT REFUSING TO ISSUE A WRIT OF HABEAS CORPUS,
40 EXCEPT AS PROVIDED IN ARTICLE 41, § 2-210 OF THE CODE. WHERE REVIEW IS

HOUSE BILL 174

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1 ALLOWED BY LAW, REVIEW OF THE ORDER REFUSING TO ISSUE THE WRIT SHALL BE
2 SOUGHT BY APPLICATION FOR LEAVE TO APPEAL.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 1996.