

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL NO. 706

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, after “Procedure -” insert “District Court Criminal Appeals and”; in line 9, after “circumstances;” insert “eliminating a requirement that an appeal of a criminal case from the District Court shall be tried de novo; requiring an appeal of a criminal case from the District Court to be tried on the record made in the District Court; providing for the application of this Act;”; in line 11, after “courts” insert “and appeals of criminal cases from the District Court”; in line 19, after “(d)(1)” insert “, 12-401, and 12-702(c)”.

AMENDMENT NO. 2

On page 3, after line 7, insert:

“12-401.

(a) A party in a civil case may appeal from a final judgment entered in the District Court.

(b) In a criminal case:

(1) The State may appeal from a final judgment entered in the District Court:

(i) If the State alleges that the trial judge failed to impose the sentence specifically mandated by the Code; or

(ii) Granting a motion to dismiss, or quashing or dismissing a charging document.

(2) The defendant may appeal even from a final judgment entered in the District Court though imposition or execution of sentence has been suspended.

(Over)

(c) Notwithstanding any other provision of law, an appeal taken under subsection (b)(1)(ii) of this section shall be[:

(1) To the circuit court solely for the purpose of reviewing the judgment of the District Court; and

(2) Heard] HEARD on the record made in the District Court.

(d) A defendant who has been found guilty of a municipal infraction, as defined in Article 23A, § 3(b)(1) of the Code or a Code violation under Article 27, § 403 of the Code, may appeal from the final judgment entered in the District Court. The costs and procedures for taking the appeal shall be as provided for appeals from criminal cases in the District Court. Except, however, as provided in subsection (f) of this section, the appellate court shall docket and hear the appeal as a civil appeal from the District Court.

(e) (1) Except as provided in paragraph (2) of this subsection, an appeal shall be taken by filing an order for appeal with the clerk of the District Court within 30 days from the date of the final judgment from which appealed.

(2) If the final judgment was entered in a case filed under § 8-332, § 8-401, § 8-402, § 14-109, or § 14-120 of the Real Property Article, the order for appeal shall be filed within the time prescribed by the particular section.

(f) In a civil case in which the amount in controversy exceeds \$2,500 exclusive of interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract, in any matter arising under § 4-401(7)(ii) of this article, IN A CRIMINAL CASE, and in any case in which the parties so agree, an appeal shall be heard on the record made in the District Court. In every other case, including [a criminal case in which sentence has been imposed or suspended following a plea of nolo contendere or guilty, and] an appeal in a municipal infraction or Code violation case, an appeal shall be tried de novo.

[(g) In a criminal appeal that is tried de novo, there is no right to a jury trial unless the offense charged is subject to a penalty of imprisonment or unless there is a constitutional right to a jury trial for that offense.]

12-702.

(c) If a defendant who appeals from a conviction in the District Court is convicted after a trial [de novo] ON THE RECORD MADE IN THE DISTRICT COURT on appeal, the appellate court may impose a more severe sentence than that imposed in the District Court, but if the case is one in which the defendant was denied a jury trial under § 4-302(e)(2) of this article, the sentence may not be for more than 90 days except under the conditions prescribed in subsection (b) of this section. Except as provided above, the appellate court may impose any sentence authorized by law to be imposed as punishment for the offense.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed only prospectively and may not be applied or interpreted to have any effect on or application to any criminal action commenced before the effective date of this Act.”;

and in line 8, strike “2.” and substitute “3.”.