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By: Senator Stone (Task Force to Examine Maryland's Crime Victims'
Rights Laws)

Introduced and read first time: January 15, 2002

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 111 110 1 00110011111118	1	AN	ACT	concerning
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2 Victims' Rights - Right to Restitution - Leave to Appeal

- 3 FOR the purpose of authorizing the State to file for leave to appeal to the Court of
- 4 Special Appeals from an interlocutory or final order that denies or fails to
- 5 consider certain rights to restitution to a victim under certain circumstances;
- and generally relating to a victim's right to restitution and leave to appeal.
- 7 BY repealing and reenacting, with amendments,
- 8 Article Courts and Judicial Proceedings
- 9 Section 12-302(c)
- 10 Annotated Code of Maryland
- 11 (1998 Replacement Volume and 2001 Supplement)
- 12 BY repealing and reenacting, without amendments,
- 13 Article Criminal Procedure
- 14 Section 11-103(a)
- 15 Annotated Code of Maryland
- 16 (2001 Volume)
- 17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 18 MARYLAND, That the Laws of Maryland read as follows:

19 Article - Courts and Judicial Proceedings

- 20 12-302.
- 21 (c) In a criminal case, the State may appeal as provided in this subsection.
- 22 (1) The State may appeal from a final judgment granting a motion to
- 23 dismiss or quashing or dismissing any indictment, information, presentment, or
- 24 inquisition.
- 25 (2) The State may appeal from a final judgment if the State alleges that
- 26 the trial judge failed to impose the sentence specifically mandated by the Code.

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3 4 5	(3) (i) In a case involving a crime of violence as defined in § 643B of Article 27, and in cases under §§ 286 and 286A of Article 27, the State may appeal from a decision of a trial court that excludes evidence offered by the State or requires the return of property alleged to have been seized in violation of the Constitution of the United States, the Constitution of Maryland, or the Maryland Declaration of Rights.
	(ii) The appeal shall be made before jeopardy attaches to the defendant. However, in all cases the appeal shall be taken no more than 15 days after the decision has been rendered and shall be diligently prosecuted.
12 13 14	(iii) Before taking the appeal, the State shall certify to the court that the appeal is not taken for purposes of delay and that the evidence excluded or the property required to be returned is substantial proof of a material fact in the proceeding. The appeal shall be heard and the decision rendered within 120 days of the time that the record on appeal is filed in the appellate court. Otherwise, the decision of the trial court shall be final.
18 19	(iv) If the State appeals on the basis of this paragraph, and if on final appeal the decision of the trial court is affirmed, the charges against the defendant shall be dismissed in the case from which the appeal was taken. In that case, the State may not prosecute the defendant on those specific charges or on any other related charges arising out of the same incident.
23 24	(v) Pending the prosecution and determination of an appeal taken under paragraph (1) or (3) of this subsection, the defendant shall be released on personal recognizance bail. If the defendant fails to appear as required by the terms of the recognizance bail, the trial court shall subject the defendant to the penalties provided in § 5-211 of the Criminal Procedure Article.
	(vi) If the State loses the appeal, the jurisdiction shall pay all the costs related to the appeal, including reasonable attorney fees incurred by the defendant as a result of the appeal.
31 32	(4) IN A CASE INVOLVING A VIOLENT CRIME AS DEFINED IN § 11-103(A) OF THE CRIMINAL PROCEDURE ARTICLE, THE STATE MAY FILE AN APPLICATION FOR LEAVE TO APPEAL TO THE COURT OF SPECIAL APPEALS FROM AN INTERLOCUTORY OR FINAL ORDER THAT DENIES OR FAILS TO CONSIDER THE RIGHT TO RESTITUTION TO A VICTIM UNDER TITLE 11, SUBTITLE 6 OF THE CRIMINAL PROCEDURE ARTICLE.
34	Article - Criminal Procedure
35	11-103.
36	(a) (1) In this section, "violent crime" means:
37	(i) a crime of violence; or
38 39	(ii) except as provided in paragraph (2) of this subsection, a crime involving, causing, or resulting in death or serious bodily injury.

- 1 (2) "Violent crime" does not include an offense under the Maryland
- 2 Vehicle Law or under Title 8, Subtitle 7 of the Natural Resources Article unless the
- 3 offense is punishable by imprisonment.
- 4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 5 October 1, 2002.