

HOUSE BILL 144

E2

8lr1207

By: **Delegates Cardin, Anderson, Haynes, Ramirez, Rosenberg, Smigiel, Vallario, and Waldstreicher**

Introduced and read first time: January 18, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Appeals – District Courts – Stay of Sentence and Release**

3 FOR the purpose of requiring, in a criminal appeal from a final judgment in District
4 Court, that the District Court stay service of a sentence of imprisonment and
5 release a defendant under certain circumstances; authorizing the District Court
6 to impose conditions for release of the defendant or deny release of the
7 defendant pending appeal in accordance with the Maryland Rules; requiring the
8 District Court to state its reasons in writing or on the record for denying release
9 of the defendant; authorizing a defendant to seek review of the District Court's
10 decision in accordance with certain provisions of law and the Maryland Rules;
11 providing for the application of this Act; and generally relating to a stay of
12 sentence and release of a defendant in a criminal appeal from a District Court
13 judgment.

14 BY repealing and reenacting, without amendments,
15 Article – Courts and Judicial Proceedings
16 Section 3–702(a), 12–401(b)(2), (d)(1), (f), and (g)
17 Annotated Code of Maryland
18 (2006 Replacement Volume and 2007 Supplement)

19 BY adding to
20 Article – Courts and Judicial Proceedings
21 Section 12–401(h)
22 Annotated Code of Maryland
23 (2006 Replacement Volume and 2007 Supplement)

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

26 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 3-702.

2 (a) A person committed, detained, confined, or restrained from his lawful
3 liberty within the State for any alleged offense or under any color or pretense or any
4 person in his behalf, may petition for the writ of habeas corpus to the end that the
5 cause of the commitment, detainer, confinement, or restraint may be inquired into.

6 12-401.

7 (b) In a criminal case:

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

10 (d) (1) A defendant who has been found guilty of a municipal infraction,
11 as defined in Article 23A, § 3(b)(1) of the Code or a Code violation under § 10-119 of
12 the Criminal Law Article, may appeal from the final judgment entered in the District
13 Court.

14 (f) In a civil case in which the amount in controversy exceeds \$5,000
15 exclusive of interest, costs, and attorney's fees if attorney's fees are recoverable by law
16 or contract, in any matter arising under § 4-401(7)(ii) of this article, and in any case in
17 which the parties so agree, an appeal shall be heard on the record made in the District
18 Court. In every other case, including a criminal case in which sentence has been
19 imposed or suspended following a plea of nolo contendere or guilty, and an appeal in a
20 municipal infraction or Code violation case, an appeal shall be tried de novo.

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

24 **(H) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN A**
25 **CRIMINAL APPEAL THAT IS TRIED DE NOVO, THE DISTRICT COURT SHALL STAY**
26 **SERVICE OF A SENTENCE OF IMPRISONMENT AND RELEASE A DEFENDANT**
27 **PENDING THE DEFENDANT'S APPEAL TO THE CIRCUIT COURT.**

28 **(2) (I) IN ACCORDANCE WITH THE MARYLAND RULES, THE**
29 **DISTRICT COURT MAY:**

30 **1. IMPOSE CONDITIONS FOR RELEASE OF THE**
31 **DEFENDANT; OR**

32 **2. DENY RELEASE OF THE DEFENDANT PENDING**
33 **APPEAL.**

1 **(II) THE DISTRICT COURT SHALL STATE THE REASONS IN**
2 **WRITING OR ON THE RECORD FOR DENYING RELEASE OF THE DEFENDANT**
3 **PENDING APPEAL.**

4 **(III) THE DEFENDANT MAY SEEK REVIEW OF THE DISTRICT**
5 **COURT'S DECISION IN THE CIRCUIT COURT WHILE THE APPEAL IS PENDING IN**
6 **ACCORDANCE WITH:**

7 **1. § 3-702(A) OF THIS ARTICLE; OR**

8 **2. THE MARYLAND RULES.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
10 construed to apply only prospectively and may not be applied or interpreted to have
11 any effect on or application to any criminal offense charged before the effective date of
12 this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2008.