

HOUSE BILL 569

E2

9lr1458

By: **Delegates Carter, Anderson, Cardin, Ramirez, Simmons, Smigiel, and Vallario**

Introduced and read first time: February 6, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – De Novo Appeal – Stay of Sentence**

3 FOR the purpose of authorizing a circuit court, in a criminal appeal that is tried de
4 novo, to stay a sentence of imprisonment and release the defendant pending
5 trial under certain circumstances; and generally relating to de novo appeals and
6 stays of sentence in criminal appeals cases.

7 BY repealing and reenacting, with amendments,
8 Article – Courts and Judicial Proceedings
9 Section 12–401
10 Annotated Code of Maryland
11 (2006 Replacement Volume and 2008 Supplement)

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

14 **Article – Courts and Judicial Proceedings**

15 12–401.

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

18 (b) In a criminal case:

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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 (2) The costs and procedures for taking the appeal shall be as provided
15 for appeals from criminal cases in the District Court.

16 (3) Except, however, as provided in subsection (f) of this section, the
17 appellate court shall docket and hear the appeal as a civil appeal from the District
18 Court.

19 (e) (1) Except as provided in paragraph (2) of this subsection, an appeal
20 shall be taken by filing an order for appeal with the clerk of the District Court within
21 30 days from the date of the final judgment from which appealed.

22 (2) If the final judgment was entered in a case filed under § 8–332, §
23 8–401, § 8–402, § 14–109, or § 14–120 of the Real Property Article, the order for appeal
24 shall be filed within the time prescribed by the particular section.

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

32 (g) In a criminal appeal that is tried de novo[, there]:

1 **(1)** **THERE** is no right to a jury trial unless the offense charged is
2 subject to a penalty of imprisonment or unless there is a constitutional right to a jury
3 trial for that offense; **AND**

4 **(2)** **ON THE FILING OF A NOTICE OF APPEAL, THE CIRCUIT COURT**
5 **MAY STAY A SENTENCE OF IMPRISONMENT IMPOSED BY THE DISTRICT COURT**
6 **AND RELEASE THE DEFENDANT PENDING TRIAL IN THE CIRCUIT COURT.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2009.