

CHAPTER 680

(House Bill 569)

AN ACT concerning

Criminal Procedure – De Novo Appeal – Stay of Sentence

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

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

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

Article – Courts and Judicial Proceedings

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.

(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 on the record made in the District Court.

(d) (1) 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 § 10–119 of the Criminal Law Article, may appeal from the final judgment entered in the District Court.

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

(3) 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 \$5,000 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, 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]:

(1) **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; **AND**

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

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

Approved by the Governor, May 19, 2009.