

HOUSE BILL 1458

D1, L1

8lr2485

By: **Calvert County Delegation**

Introduced and read first time: February 9, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **District Court – County Zoning Violation – Appeals**

3 FOR the purpose of authorizing, in a case alleging a county zoning violation, an appeal by
4 the defendant or the county from a final judgment of the District Court; and
5 generally relating to appeals of final judgments of the District Court.

6 BY repealing and reenacting, with amendments,
7 Article – Courts and Judicial Proceedings
8 Section 12–401
9 Annotated Code of Maryland
10 (2013 Replacement Volume and 2017 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article – Land Use
13 Section 11–202
14 Annotated Code of Maryland
15 (2012 Volume and 2017 Supplement)

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

18 **Article – Courts and Judicial Proceedings**

19 12–401.

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

22 (b) In a criminal case:

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Court:

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

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

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

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

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

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

13 (d) (1) A defendant who has been found guilty of a municipal infraction, as
14 described in § 6–102 of the Local Government Article or a Code violation under § 10–119 of
15 the Criminal Law Article, may appeal from the final judgment entered in the District Court.

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

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

20 **(E) A DEFENDANT OR A COUNTY MAY APPEAL FROM THE FINAL JUDGMENT**
21 **ENTERED IN THE DISTRICT COURT IN A ZONING VIOLATION CASE UNDER § 11–202**
22 **OF THE LAND USE ARTICLE.**

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

26 (2) If the final judgment was entered in a case filed under § 8–332, § 8–401,
27 § 8–402, § 14–109, or § 14–120 of the Real Property Article, the order for appeal shall be
28 filed within the time prescribed by the particular section.

29 [(f)] (G) In a civil case in which the amount in controversy exceeds \$5,000
30 exclusive of interest, costs, and attorney's fees if attorney's fees are recoverable by law or
31 contract, in any matter arising under § 4–401(7)(ii) of this article, and in any case in which
32 the parties so agree, an appeal shall be heard on the record made in the District Court. In
33 every other case, including a criminal case in which sentence has been imposed or

1 suspended following a plea of nolo contendere or guilty, and an appeal in a municipal
2 infraction or Code violation case, an appeal shall be tried de novo.

3 **[(g)] (H)** In a criminal appeal that is tried de novo:

4 (1) There is no right to a jury trial unless the offense charged is subject to
5 a penalty of imprisonment or unless there is a constitutional right to a jury trial for that
6 offense; and

7 (2) On the filing of a notice of appeal, the circuit court may stay a sentence
8 of imprisonment imposed by the District Court and release the defendant pending trial in
9 the circuit court.

10 **Article – Land Use**

11 11–202.

12 (a) A legislative body of a county may provide a civil penalty for a zoning violation,
13 which shall be enforced as provided in this subtitle.

14 (b) The legislative body may:

15 (1) impose a fine not exceeding \$500 for each violation;

16 (2) establish a schedule of additional fines for each violation; and

17 (3) adopt procedures for the collection of the fines.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2018.