

SECOND REGULAR SESSION

SENATE BILL NO. 1150

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BARTLE.

Read 1st time February 28, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

5358S.011

AN ACT

To repeal section 547.200, RSMo, and to enact in lieu thereof one new section relating to appeals brought by a prosecuting or circuit attorney.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 547.200, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 547.200, to read as follows:

547.200. 1. An appeal may be taken by the state through the prosecuting or circuit attorney from any order or judgment **that will not impose double jeopardy**, the substantive effect of which results in:

(1) Quashing an arrest warrant;

(2) A determination by the court that the accused lacks the mental capacity or fitness to proceed to trial, pursuant to section 552.020, RSMo;

(3) Suppressing evidence; [or]

(4) Suppressing a confession or admission;

(5) Setting aside all or any portion of the indictment, information, or complaint under section 547.210, RSMo;

(6) Granting a new trial;

(7) Arresting judgment;

(8) Modifying the verdict or finding by reducing the degree of the offense or the punishment imposed by a jury or modifying the offense to a lesser offense;

(9) A judgment dismissing or otherwise terminating all or any portion of the action including such an order or judgment after a verdict or finding of guilt or an order or judgment entered before the defendant has been placed in jeopardy or where the defendant has

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 waived jeopardy;

21 (10) Denying the motion of the state to reinstate the complaint
22 or a portion thereof;

23 (11) Imposing an unlawful sentence, regardless of whether the
24 court suspends the execution of the sentence. As used in this
25 subdivision, "unlawful sentence" means the imposition of a sentence not
26 authorized by law or the imposition of a sentence based upon an
27 unlawful order of the court which strikes or otherwise modifies the
28 effect of an enhancement or prior conviction; or

29 (12) Recusing the prosecuting attorney's office.

30 2. The state, in any criminal prosecution, shall be allowed an appeal in
31 the cases and under the circumstances mentioned in section 547.210 and in all
32 other criminal cases except in those cases where the possible outcome of such an
33 appeal would result in double jeopardy for the defendant. The supreme court
34 shall issue rules governing such appeals.

35 3. The appeal provided in subsection 1 of this section shall be an
36 interlocutory appeal, filed in the appropriate district of the Missouri court of
37 appeals, unless the proceedings involve a charge of capital murder or murder in
38 the first degree, pursuant to the provisions of section 565.001 or 565.003, RSMo,
39 in which case notices of appeal shall be filed in the supreme court of Missouri.

40 4. Notices of appeal involving appeals under subsection 1 of this section
41 shall be filed in the appropriate court within five days of the entry of the order
42 of the trial court. In such appeals, the time requirements of section 545.780,
43 RSMo, shall be tolled until the decision is rendered by the appropriate appellate
44 court.

45 5. The supreme court shall issue appropriate rules to facilitate the
46 disposition of such appeals, balancing the right of the state to review the
47 correctness of pretrial decisions of a trial court against the rights of the defendant
48 to a speedy trial, including measures to facilitate these appeals by shortening of
49 the time to file appellant's brief under supreme court rule 30.06(K) to ten days,
50 and eliminations of motions for rehearing or transfer under supreme court rules
51 30.26 and 30.27.

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