

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 1158

By: Worthen

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2011, Sections 1053 and 1089.1, which relate to appeals taken by the state or municipality; authorizing appeals by the state or a municipality in certain cases; clarifying appellate procedures; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 2011, Section 1053, is amended to read as follows:

Section 1053. Appeals to the Court of Criminal Appeals may be taken by the state or a municipality in the following cases and no other:

1. Upon judgment for the defendant on quashing or setting aside an indictment or information;
2. Upon an order of the court arresting the judgment;
3. Upon a question reserved by the state or a municipality;
4. Upon judgment for the defendant on a motion to quash for insufficient evidence in a felony matter;

1 5. Upon a pretrial order, decision, or judgment suppressing or
2 excluding evidence where appellate review of the issue would be in
3 the best interests of justice; ~~and~~

4 6. Upon a pretrial order, decision or judgment suppressing or
5 excluding evidence in cases alleging violation of any provisions of
6 Section 13.1 of Title 21 of the Oklahoma Statutes; and

7 7. Upon a pretrial order, decision or judgment granting
8 immunity from criminal prosecution or civil action pursuant to the
9 provisions of Section 1289.25 of Title 21 of the Oklahoma Statutes.

10 Priority shall be given to appeals taken pursuant to paragraph 5
11 ~~or~~, 6 or 7 of this section, and an order staying proceedings shall
12 be entered pending the outcome of the appeal.

13 SECTION 2. AMENDATORY 22 O.S. 2011, Section 1089.1, is
14 amended to read as follows:

15 Section 1089.1 The State of Oklahoma, by and through the
16 district attorney or Attorney General, shall have the right to
17 appeal an adverse ruling or order of a magistrate ~~sustaining~~:

- 18 1. Sustaining a motion to suppress evidence, ~~quashing~~;
 - 19 2. Quashing an information, ~~sustaining~~;
 - 20 3. Sustaining a plea to the jurisdiction of the court, ~~failing~~;
 - 21 4. Failing to find prosecutive merit in a hearing pursuant to
22 Section 2-2-403 of Title 10A of the Oklahoma Statutes, ~~sustaining~~;
 - 23 5. Sustaining a demurrer to the information, ~~binding~~;
- 24

1 6. Binding the defendant over for trial on a charge other than
2 the charge for the original offense,~~or discharging;~~

3 7. Discharging a defendant at the preliminary examination
4 because of insufficiency of the evidence to establish either that a
5 crime has been committed or that there is probable cause to believe
6 that the accused has committed a felony; or

7 8. Granting immunity from criminal prosecution or civil action
8 pursuant to the provisions of Section 1289.25 of Title 21 of the
9 Oklahoma Statutes.

10 Such an appeal shall be taken in accordance with the procedures
11 provided in this act.

12 SECTION 3. This act shall become effective November 1, 2019.

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