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February 15, 2022

SENATE BILL NO. 1742

By: Murdock of the Senate

and

Newton of the House

An Act relating to the Court of Criminal Appeals; amending 22 O.S. 2021, Sections 1051 and 1053, which relate to right of appeal; authorizing appeal for denial of certain pretrial motion; establishing requirements for certain appeal; establishing priority of certain appeal; providing for waiver of appellate review under certain circumstances; authorizing certain appeal by state or municipality; updating statutory language; making language gender neutral; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2021, Section 1051, is amended to read as follows:

Section 1051. ~~(a)~~ A. An appeal to the Court of Criminal Appeals may be taken by the defendant, as a matter of right from any judgment against ~~him~~ the defendant, which shall be taken as herein provided; and, upon the appeal, any decision of the court or intermediate order made in the progress of the case may be reviewed; provided further, all appeals taken from any conviction on a plea of guilty shall be taken by petition for writ of certiorari to the

1 Court of Criminal Appeals, as provided in ~~paragraph (b)~~ subsection B
2 of this section~~7~~; provided, ~~such~~ the petition must be filed within
3 ninety (90) days from the date of ~~said~~ the conviction. The Court of
4 Criminal Appeals may take jurisdiction of any case for the purpose
5 of correcting the appeal records when the same do not disclose
6 judgment and sentence; such jurisdiction shall be for the sole
7 purpose of correcting ~~such~~ the defect or defects.

8 ~~(b)~~ B. The procedure for the filing of an appeal in the Court
9 of Criminal Appeals shall be as provided in the Rules of the Court
10 of Criminal Appeals; and the Court of Criminal Appeals shall provide
11 by court rules, which will have the force of statute, and be in
12 furtherance of this method of appeal: ~~(1)~~

13 1. The procedure to be followed by the trial courts in the
14 preparation and authentication of transcripts and records in cases
15 appealed under this act;

16 ~~(2)~~ 2. ~~the~~ The procedure to be followed for the completion and
17 submission of the appeal taken hereunder; and

18 ~~(3)~~ 3. ~~the~~ The procedure to be followed for filing a petition
19 for and the issuance of a writ of certiorari.

20 ~~(c)~~ C. The scope of review to be afforded on certiorari shall
21 be prescribed by the Court of Criminal Appeals.

22 D. The defendant may appeal to the Court of Criminal Appeals
23 from the denial of a pretrial motion seeking immunity from
24 prosecution pursuant to subsection F of Section 1289.25 of Title 21

1 of the Oklahoma Statutes within ten (10) days of the denial of the
2 motion. Priority shall be given to appeals taken pursuant to this
3 subsection and an order staying proceedings shall be entered pending
4 the outcome of the appeal. If an appeal is not brought within ten
5 (10) days of the denial, the defendant waives appellate review of
6 his or her claim of immunity from prosecution and subsequent motions
7 and appeals pursuant to this subsection shall be dismissed.

8 SECTION 2. AMENDATORY 22 O.S. 2021, Section 1053, is
9 amended to read as follows:

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

13 1. Upon judgment for the defendant on quashing or setting aside
14 an indictment or information;

15 2. Upon an order of the court arresting the judgment;

16 3. Upon a question reserved by the state or a municipality;

17 4. Upon judgment for the defendant on a motion to quash for
18 insufficient evidence in a felony matter;

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

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

1 7. Upon an order, decision or judgment finding that a defendant
2 is immune from or not subject to criminal prosecution.

3 Priority shall be given to appeals taken pursuant to paragraph
4 5, 6, or ~~6~~ 7 of this section, and an order staying proceedings shall
5 be entered pending the outcome of the appeal.

6 SECTION 3. This act shall become effective November 1, 2022.

7 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
8 February 15, 2022 - DO PASS
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