

EXTRA SESSION
CHAPTER 7—S. F. No. 2

[Coded]

An act relating to criminal proceedings; providing for appeals by the state therein.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [632.11] **Criminal proceedings; appeals by state.** Subdivision 1. **Grounds.** In criminal cases the state may appeal in the following instances:

(1) From an order, the substantive effect of which is to dismiss an indictment, information or complaint.

(2) From an order granting a motion to quash an arrest warrant or a search warrant.

(3) From an order granting the return of property or suppressing evidence, or suppressing a confession or admission, when accompanied by a statement as provided in section 2 herein.

Subd. 2. **Placed in jeopardy; joinder of appeals.** (1) No appeal under subdivision 1 of this section may be taken by the state after the defendant has been put in jeopardy. For the purpose of this act, jeopardy attaches when any evidence is introduced by the state in the trial.

(2) The state may appeal from one or several of the orders under this section joined in a single appeal.

Sec. 2. [632.12] **Statement relating to return of property or suppression of evidence.** The notice of appeal taken pursuant to section 1, clause 3 shall be accompanied by a statement by the state asserting that the deprivation of the use of the property ordered to be returned or suppressed or of a confession or admission ordered to be suppressed has rendered the proof available to the state with respect to the criminal charge filed by the court, (1) insufficient as a matter of law, or (2) so weak in its entirety that any possibility of prosecuting such charge to a conviction has been effectively destroyed.

Sec. 3. [632.13] **Procedure upon appeal by state.** The procedure in appeals provided for in section 1 shall be as follows:

(1) Upon oral notice that the state intends to appeal, the court shall order a further stay of proceedings five days to allow time to perfect the appeal.

(2) Within five days of entry of the order the state shall

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file with the clerk of the court a notice of appeal, together with an affidavit or service of said notice upon opposing counsel, and upon the attorney general of the state of Minnesota, the statement set forth in section 2, when required, and a copy of the written request to the court reporter for such transcript of the proceedings as appellant deems necessary.

(3) The court reporter shall file with the clerk of court the original transcript and affidavits of delivery of same to counsel for the state and counsel for the defendant. The clerk of said court shall forthwith transmit to the supreme court any original papers, files and exhibits.

(4) Within 15 days of delivery of the transcript appellant shall serve upon opposing counsel his brief and file with the clerk of the supreme court 15 copies thereof and within eight days of such service upon him the respondent shall serve his brief and file with said clerk 15 copies thereof. Typewritten copies of the transcript and briefs may be submitted in lieu of printed transcripts and briefs.

(5) In appeals by the state the attorney general may, in his discretion, within 20 days after entry of the order staying proceedings, dismiss the appeal and shall within three days thereafter give notice thereof to the judge of the lower court and file with the clerk of said court notice of such dismissal. The lower court shall then proceed as if no appeal had been taken.

(6) The appeal may be heard before the supreme court when it is in session upon application of either party to such court or a justice thereof. The date of hearing shall not be more than six months after entry of the order staying proceedings. The supreme court shall not have jurisdiction to hear any such appeal after six months after entry of the order staying proceedings and in such cases the lower court shall then proceed as if no appeal had been taken.

(7) Bail may be set in such appeal as provided under Minnesota Statutes, Section 632.07.

(8) Reasonable attorneys' fees shall be allowed to the defendant on such appeal which shall be paid by the county in which the action is venued.

Sec. 4. **Effective date.** This act is in effect and shall apply to orders dated on or after July 1, 1967.

Approved May 29, 1967.

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