



February 11, 2021

HOUSE BILL No. 1293

DIGEST OF HB 1293 (Updated February 10, 2021 2:32 pm - DI 131)

Citations Affected: IC 35-38.

Synopsis: Criminal appeals. Provides that an order granting a motion to discharge a defendant before trial may be appealed to the supreme court or the court of appeals. Provides that the state may appeal an interlocutory order if the trial court certifies the appeal and the court on appeal makes certain findings.

Effective: July 1, 2021.

Jeter, Steuerwald

January 14, 2021, read first time and referred to Committee on Courts and Criminal Code.
February 11, 2021, amended, reported — Do Pass.

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February 11, 2021

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1293

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-38-4-2, AS AMENDED BY P.L.110-2015,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 2. **(a)** Appeals to the supreme court or to the court
4 of appeals, ~~if the court rules so provide,~~ **as provided by court rules,**
5 may be taken by the state **as of right** in the following cases:
6 (1) From an order granting a motion to dismiss one (1) or more
7 counts of an indictment or information.
8 ~~(2) From an order or judgment for the defendant, upon the~~
9 ~~defendant's motion for discharge because of delay of the~~
10 ~~defendant's trial not caused by the defendant's act, or upon the~~
11 ~~defendant's plea of former jeopardy, presented and ruled upon~~
12 ~~prior to trial.~~
13 **(2) From an order granting a motion to discharge a defendant**
14 **before trial for any reason, including delay commencing trial**
15 **or after the defendant's plea of former jeopardy.**
16 (3) From an order granting a motion to correct errors.
17 (4) Upon a question reserved by the state, if the defendant is

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1 acquitted.

2 (5) From an order granting a motion to suppress evidence, if the
3 ultimate effect of the order is to preclude further prosecution of
4 one (1) or more counts of an information or indictment.

5 ~~(6) From any interlocutory order if the trial court certifies and the~~
6 ~~court on appeal or a judge thereof finds on petition that:~~

7 **(b) The state may appeal an interlocutory order to the supreme**
8 **court or to the court of appeals, as provided by court rules, if the**
9 **trial court certifies the appeal and the court on appeal finds that:**

10 ~~(A)~~ **(1)** the appellant state will suffer substantial expense,
11 damage, or injury if the order is erroneous and the determination
12 thereof is withheld until after judgment;

13 ~~(B)~~ **(2)** the order involves a substantial question of law, the early
14 determination of which will promote a more orderly disposition
15 of the case; or

16 ~~(C)~~ **(3)** the remedy by appeal after judgment is otherwise
17 inadequate.

18 **(c) An interlocutory order that may be appealed by the state**
19 **under subsection (b) includes but is not limited to:**

20 **(1) any order granting a motion to suppress evidence that is**
21 **substantially important to the prosecution and does not have**
22 **the ultimate effect of precluding further prosecution; and**

23 **(2) any discovery order claimed to violate a court rule,**
24 **statute, or case law.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1293, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 23, delete "order requiring the state to disclose to the defendant" and insert "**discovery order claimed to violate a court rule, statute, or case law.**".

Page 2, delete line 24.

and when so amended that said bill do pass.

(Reference is to HB 1293 as introduced.)

MCNAMARA

Committee Vote: yeas 8, nays 3.

