

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 ENROLLED ACT No. 1293

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

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

SECTION 1. IC 35-38-4-2, AS AMENDED BY P.L.110-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. **(a)** Appeals to the supreme court or to the court of appeals, ~~if the court rules so provide;~~ **as provided by court rules**, may be taken by the state **as of right** in the following cases:

- (1) From an order granting a motion to dismiss one (1) or more counts of an indictment or information.
- ~~(2) From an order or judgment for the defendant; upon the defendant's motion for discharge because of delay of the defendant's trial not caused by the defendant's act; or upon the defendant's plea of former jeopardy; presented and ruled upon prior to trial.~~
- (2) From an order granting a motion to discharge a defendant before trial for any reason, including delay commencing trial or after the defendant's plea of former jeopardy.**
- (3) From an order granting a motion to correct errors.
- (4) Upon a question reserved by the state, if the defendant is acquitted.
- (5) From an order granting a motion to suppress evidence, if the ultimate effect of the order is to preclude further prosecution of one (1) or more counts of an information or indictment.

HEA 1293



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

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

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

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

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

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

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

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



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1293

