

HOUSE BILL NO. 368

Introduced: 01/19/83

Referred to Committee on Local Government: 01/19/83

Hearing: 01/27/83

Report: 1/27/83, Do Not Pass

Bill Killed: 1/28/83

1 House BILL NO. 368  
 2 INTRODUCED BY Sander  
 3 BY REQUEST OF THE TASK FORCE ON CORRECTIONS  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING THE SCOPE OF  
 6 APPEAL BY THE STATE IN CRIMINAL CASES BY ALLOWING  
 7 INTERLOCUTORY APPEALS ON CONTROLLING QUESTIONS OF LAW AND  
 8 ALLOWING APPEALS FOLLOWING JUDGMENT ON IMPORTANT QUESTIONS  
 9 OF LAW; AMENDING SECTION 46-20-103, MCA."  
 10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 12 Section 1. Section 46-20-103, MCA, is amended to read:  
 13 "46-20-103. Scope of appeal by state. (1) Except as  
 14 otherwise specifically authorized, the state may not appeal  
 15 in a criminal case.  
 16 (2) The state may appeal from any court order or  
 17 judgment the substantive effect of which results in:  
 18 (a) dismissing a case;  
 19 (b) modifying or changing the verdict as provided in  
 20 46-16-702(3)(c);  
 21 (c) granting a new trial;  
 22 (d) quashing an arrest or search warrant;  
 23 (e) suppressing evidence;  
 24 (f) suppressing a confession or admission; or  
 25 (g) granting or denying change of venue.

1 ~~(3) (a) The state may take an interlocutory appeal~~  
 2 ~~from a ruling or order when the following prerequisites~~  
 3 ~~exist and the prosecutor certifies their existence to the~~  
 4 ~~supreme court:~~  
 5 ~~(i) the ruling or order is adverse to the state;~~  
 6 ~~(ii) a controlling question of law as to which there is~~  
 7 ~~a substantial difference of opinion is involved; and~~  
 8 ~~(iii) the appeal is not taken for purposes of delay.~~  
 9 ~~(b) Trial proceedings must be suspended until the~~  
 10 ~~decision on appeal has been rendered.~~  
 11 ~~(4) The state may, following judgment, appeal from a~~  
 12 ~~ruling or order on a question of law decided adversely to~~  
 13 ~~the state and involving a controlling or other important~~  
 14 ~~question of law the resolution of which will advance the~~  
 15 ~~administration of justice in future cases. A decision on~~  
 16 ~~appeal under this subsection applies to future cases only~~  
 17 ~~and does not apply to the case in which it is taken."~~

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