

(II) THE APPEAL SHALL BE MADE BEFORE JEOPARDY ATTACHES TO THE DEFENDANT. HOWEVER, IN ALL CASES THE APPEAL SHALL BE TAKEN NO MORE THAN 15 DAYS AFTER THE DECISION HAS BEEN RENDERED AND SHALL BE DILIGENTLY PROSECUTED.

(III) BEFORE TAKING THE APPEAL, THE STATE SHALL CERTIFY TO THE COURT THAT THE APPEAL IS NOT TAKEN FOR PURPOSES OF DELAY AND THAT THE EVIDENCE EXCLUDED OR THE PROPERTY REQUIRED TO BE RETURNED IS SUBSTANTIAL PROOF OF A MATERIAL FACT IN THE PROCEEDING. THE APPEAL SHALL BE HEARD AND THE DECISION RENDERED WITHIN 120 DAYS OF THE TIME THAT THE RECORD ON APPEAL IS FILED IN THE APPELLATE COURT. OTHERWISE, THE DECISION OF THE TRIAL COURT SHALL BE FINAL.

(IV) IF THE STATE APPEALS ON THE BASIS OF THIS PARAGRAPH, AND IF ON FINAL APPEAL THE DECISION OF THE TRIAL COURT IS AFFIRMED, THE CHARGES AGAINST THE DEFENDANT SHALL BE DISMISSED IN THE CASE FROM WHICH THE APPEAL WAS TAKEN. IN THAT CASE, THE STATE MAY NOT PROSECUTE THE DEFENDANT ON THOSE SPECIFIC CHARGES OR ON ANY OTHER RELATED CHARGES ARISING OUT OF THE SAME INCIDENT.

~~(5)~~ ~~(1)~~ (V) PENDING THE PROSECUTION AND DETERMINATION OF AN APPEAL TAKEN UNDER PARAGRAPHS ~~(2)~~ (1) OR ~~(4)~~ (3) OF THIS SUBSECTION, THE DEFENDANT SHALL BE RELEASED ON PERSONAL RECOGNIZANCE BAIL. IF THE DEFENDANT FAILS TO APPEAR AS REQUIRED BY THE TERMS OF THE RECOGNIZANCE BAIL, THE TRIAL COURT SHALL SUBJECT THE DEFENDANT TO THE PENALTIES PROVIDED IN ARTICLE 27, § 12B.

(VI) IF THE STATE LOSES THE APPEAL, THE JURISDICTION SHALL PAY ALL THE COSTS RELATED TO THE APPEAL, INCLUDING REASONABLE ATTORNEY FEES INCURRED BY THE DEFENDANT AS A RESULT OF THE APPEAL.

~~(11) -- IF -- THE -- DEFENDANT -- FAILS -- TO -- APPEAR -- AS -- REQUIRED -- BY -- THE -- TERMS -- OF -- THE -- RECOGNIZANCE -- BAIL, -- THE -- TRIAL -- COURT -- SHALL -- SUBJECT -- THE -- DEFENDANT -- TO -- THE -- PENALTIES -- PROVIDED -- IN -- ARTICLE -- 27, -- § -- 12B -- OF -- THE -- CODE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1982.

Approved June 1, 1982.

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CHAPTER 494

(Senate Bill 50)