

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~~ 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.

~~(v)~~ 1. Pending EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, PENDING the prosecution and determination of an appeal taken under paragraph (1) ~~for (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 § 5-211 of the Criminal Procedure Article.

2. A. PENDING THE PROSECUTION AND DETERMINATION OF AN APPEAL TAKEN UNDER PARAGRAPH (1) OR (3) OF THIS SUBSECTION, IN A CASE IN WHICH THE DEFENDANT IS CHARGED WITH A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, THE COURT MAY RELEASE THE DEFENDANT ON ANY TERMS AND CONDITIONS THAT THE COURT CONSIDERS APPROPRIATE OR MAY ORDER THE DEFENDANT REMANDED TO CUSTODY PENDING THE OUTCOME OF THE APPEAL.

B. THE DETERMINATION AND ENFORCEMENT OF ANY TERMS AND CONDITIONS OF RELEASE SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF TITLE 5 OF THE CRIMINAL PROCEDURE ARTICLE.

~~(vi)~~ (v) 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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any appeal taken by the State before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2004.

Approved May 26, 2004.