

**Enrolled**  
**House Bill 3068**

Sponsored by Representative BARKER

CHAPTER .....

AN ACT

Relating to appeals taken by the state; amending ORS 138.060; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 138.060 is amended to read:

138.060. (1) The state may take an appeal from the circuit court, **or from a municipal court or a justice court that has become a court of record under ORS 51.025 or 221.342**, to the Court of Appeals from:

- (a) An order made prior to trial dismissing or setting aside the accusatory instrument;
- (b) An order arresting the judgment;
- (c) An order made prior to trial suppressing evidence;
- (d) An order made prior to trial for the return or restoration of things seized;
- (e) A judgment of conviction based on the sentence as provided in ORS 138.222;
- (f) An order in a probation revocation hearing finding that a defendant who was sentenced to probation under ORS 137.712 has not violated a condition of probation by committing a new crime;
- (g) An order made after a guilty finding dismissing or setting aside the accusatory instrument;
- (h) An order granting a new trial; or
- (i) An order dismissing an accusatory instrument under ORS 136.130.

(2) Notwithstanding subsection (1) of this section, when the state chooses to appeal from an order listed in paragraph (a) or (b) of this subsection, the state shall take the appeal [*from the circuit court*] to the Supreme Court if the defendant is charged with murder or aggravated murder. The orders to which this subsection applies are:

- (a) An order made prior to trial suppressing evidence; and
- (b) An order made prior to trial dismissing or setting aside the accusatory instrument.

(3) In an appeal by the state under subsection (2) of this section, the Supreme Court shall issue its decision no later than one year after the date of oral argument or, if the appeal is not orally argued, the date that the State Court Administrator delivers the briefs to the Supreme Court for decision. Failure of the Supreme Court to issue a decision within one year is not a ground for dismissal of the appeal.

**SECTION 2. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.**

**Passed by House April 27, 2011**

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

**Passed by Senate May 26, 2011**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2011

**Approved:**

.....M,....., 2011

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John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2011

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Kate Brown, Secretary of State