

House Bill 3068

Sponsored by Representative BARKER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits state to appeal to Court of Appeals from justice court of record or municipal court of record.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to appeals taken by the state; amending ORS 138.060; and declaring an emergency.

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

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

5 138.060. (1) The state may take an appeal from the circuit court, **or from a municipal court**
6 **or a justice court that has become a court of record under ORS 51.025 or 221.342**, to the Court
7 of Appeals from:

8 (a) An order made prior to trial dismissing or setting aside the accusatory instrument;

9 (b) An order arresting the judgment;

10 (c) An order made prior to trial suppressing evidence;

11 (d) An order made prior to trial for the return or restoration of things seized;

12 (e) A judgment of conviction based on the sentence as provided in ORS 138.222;

13 (f) An order in a probation revocation hearing finding that a defendant who was sentenced to
14 probation under ORS 137.712 has not violated a condition of probation by committing a new crime;

15 (g) An order made after a guilty finding dismissing or setting aside the accusatory instrument;

16 (h) An order granting a new trial; or

17 (i) An order dismissing an accusatory instrument under ORS 136.130.

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

22 (a) An order made prior to trial suppressing evidence; and

23 (b) An order made prior to trial dismissing or setting aside the accusatory instrument.

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

