

As Introduced

**129th General Assembly
Regular Session
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H. B. No. 477

Representatives Slaby, Bulp

Cosponsors: Representatives Terhar, Huffman, O'Brien

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A B I L L

To amend section 2945.67 of the Revised Code with 1
respect to the right of the prosecution in a 2
criminal or juvenile case to appeal the court's 3
decision, order, or judgment. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2945.67 of the Revised Code be 5
amended to read as follows: 6

Sec. 2945.67. (A) ~~A Except as otherwise provided in this~~ 7
~~division, a prosecuting attorney, village solicitor, city director~~ 8
~~of law, or similar chief legal officer of a municipal corporation,~~ 9
or the attorney general, may immediately appeal as a matter of 10
right any decision of a trial court in a criminal case, or any 11
decision of a juvenile court in a delinquency case, which decision 12
grants a motion to dismiss, with or without prejudice, all or any 13
part of an indictment, complaint, or information, a motion to 14
suppress evidence, or a motion for the return of seized property 15
or grants post conviction relief pursuant to sections 2953.21 to 16
2953.24 of the Revised Code, and may immediately appeal ~~by leave~~ 17
~~of the court to which the appeal is taken~~ as a matter of right any 18
other final appealable decision, ~~except the final verdict, order,~~ 19

or judgment of the trial court in a criminal case or of the 20
juvenile court in a delinquency case. No appeal of right shall lie 21
if the double jeopardy clause of the constitution of this state or 22
the United States prohibits further prosecution, provided that an 23
appeal of right otherwise barred by double jeopardy may proceed if 24
it addresses one or more issues that are capable of repetition but 25
that otherwise would evade appellate review. In addition to any 26
other right to appeal under this section or any other provision of 27
law, a prosecuting attorney, city director of law, village 28
solicitor, or similar chief legal officer of a municipal 29
corporation, or the attorney general may appeal, in accordance 30
with section 2953.08 of the Revised Code, a sentence imposed upon 31
a person who is convicted of or pleads guilty to a felony. 32

(B) If the time for pursuing an appeal of right has expired, 33
a prosecuting attorney, city director of law, village solicitor, 34
or similar chief legal officer of a municipal corporation, or the 35
attorney general, may seek leave to appeal from the court of 36
appeals. Such an appeal shall be instituted by filing a notice of 37
appeal in the trial court and by concurrently filing a motion for 38
leave to appeal in the court of appeals. The motion shall set 39
forth the reasons for the failure of the appellant to perfect an 40
appeal of right. 41

If a defendant in a case is granted leave to pursue a delayed 42
appeal pursuant to Appellate Rule 5, a prosecuting attorney, city 43
director of law, village solicitor, or similar chief legal officer 44
of a municipal corporation, or the attorney general, may 45
cross-appeal as a matter of right from the decision, order, or 46
judgment from which the defendant is appealing. The cross-appeal 47
shall be filed within thirty days of the decision, order, or 48
judgment granting the defendant leave to appeal. 49

(C) In any proceeding brought pursuant to division (A) or (B) 50
of this section, the court, in accordance with Chapter 120. of the 51

Revised Code, shall appoint the county public defender, joint 52
county public defender, or other counsel to represent any person 53
who is indigent, is not represented by counsel, and does not waive 54
the person's right to counsel. 55

Section 2. That existing section 2945.67 of the Revised Code 56
is hereby repealed. 57