MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Shanks

To: Judiciary B

HOUSE BILL NO. 78

AN ACT TO AMEND SECTION 99-35-103, MISSISSIPPI CODE OF 1972, TO ALLOW INTERLOCUTORY APPEAL BY THE PROSECUTION UNDER CERTAIN CIRCUMSTANCES TO STAY PROCEEDINGS AND TOLL STATUTE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 99-35-103, Mississippi Code of 1972, is amended as follows:

99-35-103. The state or any municipal corporation may prosecute an appeal from a judgment of the circuit court in a criminal cause in the following cases:

(a) From a judgment sustaining a demurrer to, or a motion to quash an indictment, or an affidavit charging crime; but such appeals shall not bar or preclude another prosecution of the defendant for the same offense.

(b) From a judgment actually acquitting the defendant where a question of law has been decided adversely to the state or municipality; but in such case the appeal shall not subject the defendant to further prosecution, nor shall the judgment of

acquittal be reversed, but the Supreme Court shall nevertheless decide the question of law presented.

(c) From a ruling adverse to the state or municipality in every case in which the defendant is convicted and prosecutes an appeal; and the case shall be treated as if a cross appeal had been formally presented by the state. All questions of law thus presented shall be decided by the Supreme Court.

(d) From a ruling adverse to the state in a criminal case if the ruling is made before a jury trial or plea of guilty when the indictment is for a crime of violence as defined in Section 97-3-2, if the trial court's adverse ruling would prevent the prosecution from introducing evidence which would be relevant to prove an element of the offense. The appeal must be filed in compliance with Rule 5 of the Rules of Appellate Procedure, and the appeal will: (i) stay the prosecution of the offense, and (ii) the application of Section 99-17-1, as to the period of time within which a defendant must be tried will be tolled pending a resolution of the interlocutory appeal.

SECTION 2. This act shall take effect and be in force from and after its passage.