

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 3030

BY DELEGATE SHOTT, MR. SPEAKER, MR. ARMSTEAD,

CAPITO AND LANE

[Introduced March 14, 2017; referred to the committee
on the Judiciary.]

1 A BILL to amend and reenact §58-5-1 of the Code of West Virginia, 1931, as amended, relating
 2 to appeals as a matter of right in the West Virginia Supreme Court of Appeals; providing
 3 that every party shall be afforded an opportunity to be heard on appeal unless expressly
 4 waived; and providing exceptions.

Be it enacted by the Legislature of West Virginia:

1 That §58-5-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted
 2 to read as follows:

ARTICLE 5. APPELLATE RELIEF IN SUPREME COURT OF APPEALS.

§58-5-1. Appeal as a matter of right; when appeal lies.

1 (a) All appeals shall be afforded a full and meaningful review by the Supreme Court of
 2 Appeals, and a written decision on the merits shall be issued, as a matter of right except for the
 3 following appeals, which shall be discretionary with the court:

4 (1) Appeals from the Workers' Compensation Board of Review established by section
 5 eleven, article five, chapter twenty-three of this code;

6 (2) Appeals from orders of the Public Service Commission established by section one,
 7 article five, chapter twenty-four of this code;

8 (3) Appeals from decisions of circuit courts of administrative appeals of an agency as
 9 defined in article one, chapter twenty-nine-a of this code; and

10 (4) Appeals of decisions of circuit courts as to criminal and civil appeals arising from
 11 magistrate court.

12 (b) A party to a civil action may appeal to the Supreme Court of Appeals from a final
 13 judgment of any circuit court or from an order of any circuit court constituting a final judgment as
 14 to one or more but fewer than all claims or parties upon an express determination by the circuit
 15 court that there is no just reason for delay and upon an express direction for the entry of judgment
 16 as to such claims or parties.

17 (c) The defendant in a criminal action may appeal to the Supreme Court of Appeals from

18 a final judgment of any circuit court in which there has been a conviction or which affirms a
19 conviction obtained in an inferior court.

20 (d) Unless expressly waived, every party shall be afforded an opportunity to be heard on
21 appeal.

NOTE: The purpose of this bill is to clarify that appeals to the Supreme Court are a matter of right and that every party has an opportunity to be heard. The bill sets forth exceptions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.