WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1969

ENROLLED

SENATE BILL NO. 108

(By Mr. Poffenbarger and Mr. Brothers, original sponsors)

PASSED March 3, 1969

In Effect Ninety days from Passage

FILED IN THE OFFICE
JOHN G. CONNERLY, IV
SECRETARY OF STATE
THIS DATE 3-17-69
AN ACT to amend article four, chapter fifty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eighteen-a, relating to writs of error to judgment by courts of record of limited jurisdiction quashing indictments.

Be it enacted by the Legislature of West Virginia:

That article four, chapter fifty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eighteen-a, to read as follows:
ARTICLE 4. APPEALS FROM COURTS OF RECORD OF LIMITED JURISDICTION.

§58-4-18a. Writ of error to judgment quashing indictment.

Notwithstanding anything hereinbefore contained in this article, whenever in any criminal case an indictment is held bad or insufficient by the judgment or order of any court of record of limited jurisdiction, the state, on the application of the attorney general or the prosecuting attorney, may obtain a writ of error to secure a review of such judgment or order by the circuit court of the county in which such court of record of limited jurisdiction sits. No such writ of error shall be allowed unless the state presents its petition therefor to the circuit court, or a judge thereof, within thirty days after the entry of such judgment or order. No such judgment or order shall finally discharge, or have the effect of finally discharging, the accused from further proceedings on the indictment unless the state fails, within such period of thirty days, to apply for such writ of error, or fails to obtain such writ of error upon an application made within such period; but after the entry of such judgment or order the accused shall
not be kept in custody or required to give bail pending
the hearing and determination of the case by the circuit
court, or by the supreme court of appeals if a writ of
error is thereafter sought with respect to the decision of
the circuit court. If, upon the allowance of any such writ
of error, process from the circuit court (or the supreme
court of appeals in the event of further judicial review as
aforesaid) cannot for any reason be served personally
upon the accused, service may be had by filing a copy
thereof in the clerk's office of the court of record of
limited jurisdiction which entered such judgment or
order (or the circuit court if further judicial review is had
as aforesaid). Every such writ of error shall be heard and
determined as speedily as possible. If the judgment is
reversed and the indictment is held to be good and suffi-
cient for a trial of the accused thereon, the case shall be
remanded to the court of record of limited jurisdiction
in which the indictment was found, in order that such
trial may be had.

Except as herein otherwise provided, all of the pro-
visions of the other sections of this article shall, so far as
appropriate, be applicable to a petition for a writ of error under this section, and to all subsequent proceedings thereon in case such writ of error is allowed or granted.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tompes
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

R. Howard Meyers
Clerk of the Senate

W. H. Bankhead
Clerk of the House of Delegates

John W. Rookie
President of the Senate

Jim F. Daniel
Speaker House of Delegates

The within approved this the 12th day of March, 1969.

Arch A. Shave
Governor
PRESENTED TO THE
GOVERNOR

Date 3/8/69
Time 4:50 p.m.

RECEIVED
Mar 17 10:23 AM '69
OFFICE OF THE
SECRETARY OF STATE