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CHAPTER 3

Appeals From Magistrates in Criminal Cases

**SECTION 18‑3‑10.** Appeals to Court of Common Pleas.

Every person convicted before a magistrate of any offense whatever and sentenced may appeal from the sentence to the Court of Common Pleas for the county.

HISTORY: 1962 Code Section 7‑101; 1952 Code Section 7‑101; 1942 Code Section 1024; 1932 Code Section 1024; Cr. P. ‘22 Section 144; Cr. C. ‘12 Section 93; Cr. C. ‘02 Section 66; G. S. 2646; R. S. 66; 1870 (14) 403; 1937 (40) 80; 1994 Act No. 520, Section 4, eff September 23, 1994.

**SECTION 18‑3‑20.** How appeals shall be taken and prosecuted.

All appeals from magistrates’ courts in criminal causes shall be taken and prosecuted as prescribed in this chapter.

HISTORY: 1962 Code Section 7‑102; 1952 Code Section 7‑102; 1942 Code Section 1024; 1932 Code Section 1024; Cr. P. ‘22 Section 114; Cr. C. ‘12 Section 93; Cr. C. ‘02 Section 66; G. S. 2646; R. S. 66; 1870 (14) 403; 1937 (40) 80.

**SECTION 18‑3‑30.** Time for appeal and statement of grounds; payment of fine does not waive right of appeal.

(A) The appellant, within ten days after sentence, shall file notice of appeal with the clerk of circuit court and shall serve notice of appeal upon the magistrate who tried the case and upon the designated agent for the prosecuting agency or attorney who prosecuted the charge, stating the grounds upon which the appeal is founded.

(B) A person convicted in magistrates court who pays a fine assessed by the court does not waive his right of appeal and, upon proper notice, may appeal his conviction within the time allotted in this section.

HISTORY: 1962 Code Section 7‑103; 1952 Code Section 7‑103; 1942 Code Section 1025; 1932 Code Section 1025; Cr. P. ‘22 Section 115; Cr. C. ‘12 Section 94; Cr. C. ‘02 Section 67; 1880 (17) 493; 1968 (55) 2309; 1973 (58) 359; 2010 Act No. 269, Section 1, eff June 24, 2010.

**SECTION 18‑3‑40.** Papers shall be filed with clerk of court.

Within ten days after service the magistrate shall file the notice in the office of the clerk of court, together with the record, a statement of all the proceedings in the case, and the testimony taken at the trial as provided in Section 22‑3‑790.

HISTORY: 1962 Code Section 7‑104; 1952 Code Section 7‑104; 1942 Code Section 1026; 1932 Code Section 1026; Cr. P. ‘22 Section 116; Cr. C. ‘12 Section 95; Cr. C. ‘02 Section 68; G. S. 2648; R. S. 68; 1880 (17) 493; 1987 Act No. 49 Section 1, eff April 27, 1987.

**SECTION 18‑3‑50.** How bail shall be given.

Upon service of the notice the magistrate shall, on demand of the defendant, admit him to bail in such reasonable sum, and with good sureties, as the magistrate may require, with conditions:

(1) to appear at the court appealed to and at any subsequent term to which the case may be continued, if not previously surrendered, and so from term to term until the final decree, sentence or order of the court thereon;

(2) to abide such final sentence, order or decree and not depart without leave; and

(3) in the meantime to keep the peace and be of good behavior.

HISTORY: 1962 Code Section 7‑105; 1952 Code Section 7‑105; 1942 Code Section 1027; 1932 Code Section 1027; Cr. P. ‘22 Section 117; Cr. C. ‘12 Section 96; Cr. C. ‘02 Section 69; G. S. 2649; R. S. 69; 1880 (17) 493.

**SECTION 18‑3‑60.** Clerk shall enter case on motion calendar of court of common pleas.

The clerk of court, upon receipt of the case, shall place it upon the motion calendar of the court of common pleas.

HISTORY: 1962 Code Section 7‑106; 1952 Code Section 7‑106; 1942 Code Section 1028; 1932 Code Section 1028; Cr. P. ‘22 Section 118; Cr. C. ‘12 Section 97; Cr. C. ‘02 Section 70; G. S. 2650; R. S. 70; 1880 (17) 493; 1994 Act No. 520, Section 5, eff September 23, 1994.

**SECTION 18‑3‑70.** No examination of witnesses; action of court.

The appeal must be heard by the Court of Common Pleas upon the grounds of exceptions made and upon the papers required under this chapter, without the examination of witnesses in that court. And the court may either confirm the sentence appealed from, reverse or modify it, or grant a new trial, as to the court may seem meet and conformable to law.

HISTORY: 1962 Code Section 7‑107; 1952 Code Section 7‑107; 1942 Code Section 1029; 1932 Code Section 1029; Cr. P. ‘22 Section 119; Cr. C. ‘12 Section 98; Cr. C. ‘02 Section 71; G. S. 2651; R. S. 71; 1880 (17) 493; 1994 Act No. 520, Section 6, eff September 23, 1994.