CHAPTER 1

General Provisions

**SECTION 18‑1‑10.** Title covers all appeals in civil and criminal actions; exceptions.

The only mode of reviewing a judgment or order in a civil or criminal action, other than the mode prescribed for particular matters in Titles 14, 15, and 17, shall be as prescribed by this title.

HISTORY: 1962 Code Section 7‑1; 1952 Code Section 7‑1; 1942 Code Section 771; 1932 Code Section 771; Civ. P. ‘22 Section 636; Civ. P. ‘12 Section 374; Civ. P. ‘02 Section 335; 1870 (14) 349; 1960 (51) 1750.

**SECTION 18‑1‑20.** Definitions.

As used in reference to courts and court procedure in this Title the following terms shall be interpreted as follows:

(1) The words “real property” and “real estate” are coextensive with lands, tenements and hereditaments.

(2) The words “personal property” include money, goods, chattels, things in action and evidences of debt.

(3) The word “property” includes real and personal property.

(4) The word “clerk” signifies the clerk of the court in which the action is pending and, in the Supreme Court or the court of appeals, the clerk of the county mentioned in the title of the complaint or in another county to which the court may have changed the place of trial, unless otherwise specified.

HISTORY: 1962 Code Section 7‑16; 1952 Code Sections 7‑16 to 7‑19; 1942 Code Sections 897‑900; 1932 Code Sections 897‑900; Civ. P. ‘22 Sections 845‑848; Civ. P. ‘12 Sections 482‑485; Civ. P. ‘02 Sections 444‑447; 1870 (14) 466‑469; 1960 (51) 1926; 1999 Act No. 55, Section 25, eff June 1, 1999.

**SECTION 18‑1‑30.** Who may appeal.

Any party aggrieved may appeal in the cases prescribed in this title.

HISTORY: 1962 Code Section 7‑2; 1952 Code Section 7‑2; 1942 Code Section 773; 1932 Code Section 773; Civ. P. ‘22 Section 638; Civ. P. ‘12 Section 376; Civ. P. ‘02 Section 337; 1870 (14) 351.

**SECTION 18‑1‑40.** Appeals by corporations in criminal cases.

In all criminal cases against corporations the right of appeal shall be preserved and the procedure therein shall be such as is now provided by law in other appeals in criminal cases.

HISTORY: 1962 Code Section 7‑3; 1952 Code Section 7‑3; 1942 Code Section 992; 1932 Code Section 992; Civ. C. ‘22 Section 4300; Civ. C. ‘12 Section 2833; 1911 (27) 41.

**SECTION 18‑1‑70.** Notice of appeal shall stay execution of sentence.

In criminal cases service of notice of appeal in accordance with law shall operate as a stay of the execution of the sentence until the appeal is finally disposed of.

HISTORY: 1962 Code Section 7‑6; 1952 Code Section 7‑6; 1942 Code Section 1031; 1932 Code Section 1031; Cr. P. ‘22 Section 121; Cr. C. ‘12 Section 100; Cr. C. ‘02 Section 73; R. S. 73; 1884 (18) 737; 1944 (43) 1256.

**SECTION 18‑1‑80.** Confinement until bail given.

Pending such appeal the defendant shall still remain in confinement until he give bail in such sum and with such sureties as to the court shall seem proper.

HISTORY: 1962 Code Section 7‑7; 1952 Code Section 7‑7; 1942 Code Section 1031; 1932 Code Section 1031; Cr. P. ‘22 Section 121; Cr. C. ‘12 Section 100; Cr. C. ‘02 Section 73; R. S. 73; 1884 (18) 737; 1944 (43) 1256.

**SECTION 18‑1‑90.** When bail may be allowed.

Bail may be allowed to the defendant in all cases in which the appeal is from the trial, conviction, or sentence for a criminal offense. However, bail is not allowed when the defendant has been sentenced to death, life imprisonment, or imprisonment for more than ten years.

HISTORY: 1962 Code Section 7‑8; 1952 Code Section 7‑8; 1942 Code Section 1031; 1932 Code Section 1031; Cr. P. ‘22 Section 121; Cr. C. ‘12 Section 100; Cr. C. ‘02 Section 73; R. S. 73; 1884 (18) 737; 1944 (43) 1256; 1996 Act No. 400, Section 1, eff June 4, 1996.

**SECTION 18‑1‑100.** Amendment to cure failure to perfect appeal.

When a party shall give, in good faith, notice of appeal from a judgment or order and shall omit, through mistake, to do any other act necessary to perfect the appeal or to stay proceedings the court may permit an amendment on such terms as may be just.

HISTORY: 1962 Code Section 7‑9; 1952 Code Section 7‑9; 1942 Code Section 775; 1932 Code Section 775; Civ. P. ‘22 Section 640; Civ. P. ‘12 Section 378; Civ. P. ‘02 Section 339; 1870 (14) 353; 1878 (16) 698; 1880 (17) 368; 1912 (27) 625.

**SECTION 18‑1‑120.** How parties shall be designated on appeal.

The party appealing shall be known as the appellant and the adverse party as the respondent. But the title of the action shall not be changed in consequence of the appeal.

HISTORY: 1962 Code Section 7‑11; 1952 Code Section 7‑11; 1942 Code Section 774; 1932 Code Section 774; Civ. P. ‘22 Section 639; Civ. P. ‘12 Section 377; Civ. P. ‘02 Section 338; 1870 (14) 352.

**SECTION 18‑1‑130.** Review of intermediate orders affecting judgment.

Upon an appeal from a judgment the court may review any intermediate order involving the merits and necessarily affecting the judgment.

HISTORY: 1962 Code Section 7‑12; 1952 Code Section 7‑12; 1942 Code Section 777; 1932 Code Section 777; Civ. P. ‘22 Section 642; Civ. P. ‘12 Section 380; Civ. P. ‘02 Section 341; 1870 (14) 355.

**SECTION 18‑1‑140.** Judgment on appeal.

Upon an appeal from a judgment or order the appellate court may reverse, affirm or modify the judgment or order appealed from as to any or all of the parties and may, if necessary or proper, order a new trial. When the judgment is reversed or modified the appellate court may make complete restitution of all property and rights lost by the erroneous judgment.

HISTORY: 1962 Code Section 7‑13; 1952 Code Section 7‑13; 1942 Code Section 778; 1932 Code Section 778; Civ. P. ‘22 Section 643; Civ. P. ‘12 Section 381; Civ. P. ‘02 Section 342; 1870 (14) 356; 1960 (51) 1751.

**SECTION 18‑1‑150.** Certiorari to magistrates or municipal court.

Whenever a person shall have been convicted in a municipal court or a magistrates court such person shall have the right, upon petition, to obtain from any circuit judge or justice of the Supreme Court at chambers or in open court a writ of certiorari requiring such municipal court or magistrate to certify the entire record of the case together with a copy of the municipal ordinance or a reference to the statute involved, as the case may be, and including the rulings, findings and sentence, returnable at such time as such circuit judge or justice of the Supreme Court may direct, and upon the hearing of the writ such circuit judge or justice of the Supreme Court shall have the same jurisdiction of the entire matter as circuit judges now have in cases appealed from municipal courts or magistrates courts.

HISTORY: 1962 Code Section 7‑14; 1952 Code Section 7‑14; 1942 Code Section 994; 1932 Code Section 994; 1928 (35) 1317.

**SECTION 18‑1‑160.** Where undertakings must be filed.

The various undertakings required to be given by this title must be filed with the clerk of the court, unless the court expressly provides for a different disposition.

HISTORY: 1962 Code Section 7‑15; 1952 Code Section 7‑15; 1942 Code Section 824; 1932 Code Section 824; Civ. P. ‘22 Section 772; Civ. P. ‘12 Section 458; Civ. P. ‘02 Section 420; 1870 (14) 438.

**SECTION 18‑1‑170.** Rules of construction.

The rule of the common law that statutes in derogation of that law are to be strictly construed has no application to this title.

HISTORY: 1962 Code Section 7‑20; 1952 Code Section 7‑20; 1942 Code Section 902; 1932 Code Section 902; Civ. P. ‘22 Section 850; Civ. P. ‘12 Section 487; Civ. P. ‘02 Section 448; 1870 (14) 470.