

By: Representative Gipson

To: Judiciary A

HOUSE BILL NO. 551

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

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

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

8 99-35-103. The state or any municipal corporation may
9 prosecute an appeal from a judgment of the circuit court in a
10 criminal cause in the following cases:

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

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



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

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

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

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

