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BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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- 4 29 1988

House Bill 4719 (Substitute H-1 as passed by the House)

Sponsor: Representative Frank M. Fitzgerald

House Committee: Judiciary

Senate Committee: Judiciary

Date Completed: 2-25-88

SUMMARY OF HOUSE BILL 4719 (Substitute H-1) as passed by the House:

The bill would amend the Code of Criminal Procedure to grant prosecutors the right to appeal either of the following as long as the constitutional protection against double jeopardy would not bar further proceedings against the defendant:

- A final judgment or final order of the Circuit Court or Recorder's Court, except a judgment or order of either court on appeal from any other court.
- A final judgment or order of a court or tribunal from which appeal of right has been established by law.

In addition, a prosecutor could take an appeal by leave, as long as the double jeopardy protection would not be violated, from any of the following:

- A judgment or order of the Circuit Court or Recorder's Court that was not a final judgment appealable of right.
- A final judgment entered by the Circuit Court or Recorder's Court on appeal from any other court.
- Any other judgment or order appealable by law or rule.
- A judgment or order when an appeal of right could have taken but was not timely filed.

These provisions would replace current language that limits prosecutorial appeals to appeals from decisions dismissing an information, indictment, or other charging instrument, or preventing a judgment of conviction or directing a judgment of acquittal, based on the invalidity or construction of a statute upon which the instrument was founded; and appeals from a decision or judgment sustaining a special plea in bar, when the defendant has not been put in jeopardy, or from another court order concerning the admission of evidence or other proceedings that occurred before a defendant was put in jeopardy.

The bill would take effect March 30, 1988, and would apply to crimes committed on or after that date.

MCL 770.12

Legislative Analyst: S. Margules

FISCAL INFORMATION

The bill would have an indeterminate impact on State and local units of government. Possible additional court expenses and representation costs for indigent defendants cannot be estimated.

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.