

AN ACT

Of the Parliament of the Bayer Free State
No. 9 of 2022

Be it enacted by this Parliament, That, this legislation shall be cited as the “2022 Appellate Proceeding Act”.

Part I. Applicability

Article 1. Scope

This Act shall govern the procedure in all proceedings in the Supreme Court of the Bayer Free State, and all subsequent courts of appeals that may be established by law within the jurisdiction of the Bayer Free State.

Article 2. Suspension

On its own or a party's motion, a court of appeals may—to expedite its decision or for other good cause—suspend any provision of this Act in a particular case and order proceedings as it directs.

Part II. Appeal from a Judgment or Order of a Court

Article 3. Appeal as of Right—How Taken

Section 1

- (a) An appeal permitted by law as of right from a court to a court of appeals may be taken only by filing a notice of appeal within the time allowed by [Article 4](#).
- (b) An appellant's failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for the court of appeals to act as it considers appropriate, including dismissing the appeal.
- (c) An appeal from a judgment by a judge in a civil case is taken in the same way as an appeal from any other court judgment.

Section 2

- (a) When two or more parties are entitled to appeal from a court judgment or order, and their interests make joinder practicable, they may file a joint notice of appeal. They may then proceed on appeal as a single appellant.
- (b) When the parties have filed separate timely notices of appeal, the appeals may be joined or consolidated by the court of appeals.

Section 3

- (a) The notice of appeal must:
 - specify the party or parties taking the appeal by naming each one in the caption or body of the notice, but an attorney representing more than one party may describe those parties with such terms as “all plaintiffs,” “the defendants,” “the plaintiffs A, B, et al.,” or “all defendants except X”;
 - designate the judgment—or the appealable order—from which the appeal is taken; and
 - name the court to which the appeal is taken.
- (b) The notice of appeal encompasses all orders that, for purposes of appeal, merge into the designated judgment or appealable order. It is not necessary to designate those orders in the notice of appeal.
- (c) An appellant may designate only part of a judgment or appealable order by expressly stating that the notice of appeal is so limited. Without such an express statement, specific designations do not limit the scope of the notice of appeal.
- (d) An appeal must not be dismissed for informality of form or title of the notice of appeal, or for failure to name a party whose intent to appeal is otherwise clear from the notice, or for failure to properly designate the judgment if the notice of appeal was filed after entry of the judgment and designates an order that merged into that judgment.

Section 4

- (a) The court must serve notice of the filing of a notice of appeal by sending a copy to each party's counsel of record—excluding the appellant's. When a defendant in a criminal case appeals, the court must also serve a copy of the notice of appeal on the defendant. The court must promptly send a copy of the notice of appeal and of the docket entries—and any later docket entries—to the court of appeals named in the notice. The court must note, on each copy, the date when the notice of appeal was filed.
- (b) The court's failure to serve notice does not affect the validity of the appeal. The court must note on the docket the names of the parties to whom the court sends copies, with the date of sending.

Article 4. Appeal as of Right—When Taken

Section 1

- (a)
 - A notice of appeal must be filed in the court of appeals within 14 days after the later of:
 - + the entry of either the judgment or the order being appealed; or
 - + the filing of the government's notice of appeal.
 - When the government is entitled to appeal, its notice of appeal must be filed in the court of appeals within 21 days after the later of:
 - + the entry of the judgment or order being appealed; or
 - + the filing of a notice of appeal by any defendant.
- (b) A notice of appeal filed after the court announces a decision, sentence, or order—but before the entry of the judgment or order—is treated as filed on the date of and after the entry.
- (c) A valid notice of appeal is effective—without amendment—to appeal from an order disposing of any motions.

- (d) Upon a finding of excusable neglect or good cause, the court may—before or after the time has expired, with or without motion and notice—extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this Section.
- (e) The filing of a notice of appeal under this Section does not divest a court of jurisdiction to correct a sentence under Article 32 Section 1 of the 2022 Criminal Proceeding Act, nor does the filing of a motion under that section affect the validity of a notice of appeal filed before entry of the order disposing of the motion. The filing of a motion under Article 32 Section 1 of the 2022 Criminal Proceeding Act does not suspend the time for filing a notice of appeal from a judgment of conviction.
- (f) A judgment or order is entered for purposes of this Section when it is entered on the docket.

Section 2

If a notice of appeal in either a civil or a criminal case is mistakenly filed in the court of appeals, that court must note on the notice the date when it was received and send it to the court. The notice is then considered filed in the court on the date so noted.

Article 5. Appeal by Permission

Section 1

- (a) To request permission to appeal when an appeal is within the court of appeals' discretion, a party must file a petition with the court and serve it on all other parties to the court action.
- (b) The petition must be filed within the time specified by the statute authorizing the appeal or, if no such time is specified, within the time provided by [Article 4](#) for filing a notice of appeal.
- (c) If a party cannot petition for appeal unless the court first enters an order granting permission to do so or stating that the necessary conditions are met, the court may amend its order, either on its own or in response to a party's

motion, to include the required permission or statement. In that event, the time to petition runs from entry of the amended order.

Section 2

(a) The petition must include the following:

- the facts necessary to understand the question presented;
- the question itself;
- the relief sought;
- the reasons why the appeal should be allowed and is authorized by a statute; and
- an attached copy of:
 - + the order, decree, or judgment complained of and any related opinion or memorandum, and
 - + any order stating the court's permission to appeal or finding that the necessary conditions are met.

(b) A party may file an answer in opposition or a cross-petition within 10 days after the petition is served.

(c) The petition and answer will be submitted without argument unless the court of appeals orders otherwise.

Article 6. Release in a Criminal Case

Section 1

The court must state in writing the reasons for an order regarding the release or detention of a defendant in a criminal case. A party appealing from the order must file with the court of appeals a copy of the court's order and the court's statement of reasons as soon as practicable after filing the notice of appeal.

Section 2

After reasonable notice to the appellant, the court of appeals must promptly determine the appeal on the basis of the papers, affidavits, and parts of the record that the parties present or the court requires. Unless the court so orders, briefs need not be filed.

Section 3

The court of appeals or one of its judges may order the defendant's release pending the disposition of the appeal.

Article 7. The Record on Appeal

The following items constitute the record on appeal:

- the original papers and exhibits filed in the court;
- the transcript of proceedings, if any; and
- a certified copy of the docket entries prepared by the court.

Article 8. Forwarding the Record

An appellant filing a notice of appeal must do whatever else is necessary to enable the court to assemble and forward the record. If there are multiple appeals from a judgment or order, the court must forward a single record.

Article 9. Docketing the Appeal; Filing a Representation Statement

Section 1

Upon receiving the copy of the notice of appeal and the docket entries under [Article 3](#), the court must docket the appeal under the title of the court action and must identify the appellant, adding the appellant's name if necessary.

Section 2

Unless the court of appeals designates another time, the attorney who filed the notice of appeal must, within 3 days after filing the notice, file a statement with the court naming the parties that the attorney represents on appeal.

Part III. Review or Enforcement of an Order of an Administrative Agency, Board, Commission, or Officer

Article 10. Review or Enforcement of an Agency Order—How Obtained; Intervention

Section 1

- (a) Review of an agency order is commenced by filing, within the time prescribed by law, a petition for review with a court of appeals authorized to review the agency order. If their interests make joinder practicable, two or more persons may join in a petition to the same court to review the same order.
- (b) The petition must:
 - name each party seeking review either in the caption or the body of the petition—using such terms as “et al.,” “petitioners,” or “respondents” does not effectively name the parties;
 - name the agency as a respondent (even though not named in the petition, the Bayer Free State is a respondent if required by statute); and
 - specify the order or part thereof to be reviewed.
- (c) In this Article “agency” includes an agency, board, commission, or officer; “petition for review” includes a petition to enjoin, suspend, modify, or otherwise review, or a notice of appeal, whichever form is indicated by the applicable statute.

Section 2

- (a) An application to enforce an agency order must be filed with a court of appeals authorized to enforce the order. If a petition is filed to review an agency order that the court may enforce, a party opposing the petition may file a cross-application for enforcement.
- (b) Within 7 days after the application for enforcement is filed, the respondent must serve on the applicant an answer to the application and file it with the court. If the respondent fails to answer in time, the court will enter judgment for the relief requested.
- (c) The application must contain a concise statement of the proceedings in which the order was entered, the facts upon which venue is based, and the relief requested.

Section 3

Unless a statute provides another method, a person who wants to intervene in a proceeding under this Article must file a motion for leave to intervene with the court. The motion—or other notice of intervention authorized by statute—must be filed within 21 days after the petition for review is filed and must contain a concise statement of the interest of the moving party and the grounds for intervention.

Article 11. The Record on Review or Enforcement

Section 1

The record on review or enforcement of an agency order consists of:

- the order involved;
- any findings or report on which it is based; and
- the pleadings, evidence, and other parts of the proceedings before the agency.

Section 2

The parties may at any time, by stipulation, supply any omission from the record or correct a misstatement, or the court may so direct. If necessary, the court may direct that a supplemental record be prepared and filed.

Article 12. Filing the Record

Section 1

The agency must file the record with the court of appeals within 14 days after being served with a petition for review, unless the statute authorizing review provides otherwise, or within 14 days after it files an application for enforcement unless the respondent fails to answer or the court orders otherwise. The court may shorten or extend the time to file the record. The court must notify all parties of the date when the record is filed.

Section 2

(a) The agency must file:

- the original or a certified copy of the entire record or parts designated by the parties; or
- a certified list adequately describing all documents, transcripts of testimony, exhibits, and other material constituting the record, or describing those parts designated by the parties.

(b) The parties may stipulate in writing that no record or certified list be filed. The date when the stipulation is filed with the court of appeals is treated as the date when the record is filed.

(c) The agency must retain any portion of the record not filed with the court. All parts of the record retained by the agency are a part of the record on review for all purposes and, if the court or a party so requests, must be sent to the court regardless of any prior stipulation.

Article 13. Stay Pending Review

Section 1

A petitioner must ordinarily move first before the agency for a stay pending review of its decision or order.

Section 2

A motion for a stay may be made to the court of appeals or one of its judges.

(a) The motion must:

- show that moving first before the agency would be impracticable; or
- state that, a motion having been made, the agency denied the motion or failed to afford the relief requested and state any reasons given by the agency for its action.

(b) The motion must also include:

- the reasons for granting the relief requested and the facts relied on;
- originals or copies of affidavits or other sworn statements supporting facts subject to dispute; and
- relevant parts of the record.

(c) The moving party must give reasonable notice of the motion to all parties.

(d) The motion must be filed with the court and normally will be considered by a panel of the court. But in an exceptional case in which time requirements make that procedure impracticable, the motion may be made to and considered by a single judge.

Article 14. Settlement of a Judgment Enforcing an Agency Order in Part

When the court files an opinion directing entry of judgment enforcing the agency's order in part, the agency must within 14 days file with the court and serve on each other party a proposed judgment conforming to the opinion. A party who disagrees with the agency's proposed judgment must within 10 days file with the court and serve the agency with a proposed judgment that the party believes conforms to the opinion. The court will settle the judgment and direct entry without further hearing or argument.

Article 15. Applicability of Articles to the Review or Enforcement of an Agency Order

All provisions of this Act, except [Part II](#) and [Part V](#), apply to the review or enforcement of an agency order. In this Act, “appellant” includes a petitioner or applicant, and “appellee” includes a respondent.

Part IV. Extraordinary Writs

Article 16. Writs of Mandamus and Prohibition, and Other Extraordinary Writs

Section 1

- (a) A party petitioning for a writ of mandamus or prohibition directed to a court must file a petition with the court and serve it on all parties to the proceeding in the trial court. All parties to the proceeding in the trial court other than the petitioner are respondents for all purposes.
- (b)
 - The petition must be titled “In re [name of petitioner].”
 - The petition must state:
 - + the relief sought;
 - + the issues presented;

- + the facts necessary to understand the issue presented by the petition; and
 - + the reasons why the writ should be issued.
- The petition must include a copy of any order or opinion or parts of the record that may be essential to understand the matters set forth in the petition.
- (c) Upon receiving the petition, the court must docket the petition and submit it to the court.

Section 2

- (a) The court may deny the petition without an answer. Otherwise, it must order the respondent, if any, to answer within a fixed time.
- (b) The court must serve the order to respond on all persons directed to respond.
- (c) Two or more respondents may answer jointly.
- (d) The court of appeals may invite or order the trial-court judge to address the petition or may invite an amicus curiae to do so. The trial-court judge may request permission to address the petition but may not do so unless invited or ordered to do so by the court of appeals.
- (e) If briefing or argument is required, the court must advise the parties, and when appropriate, the trial-court judge or amicus curiae.
- (f) The proceeding must be given preference over ordinary civil cases.

Section 3

An application for an extraordinary writ other than one provided for in [Section 1 of this Article](#) must be made by filing a petition with the court of appeals and serving it on the respondents. Proceedings on the application must conform, so far as is practicable, to the procedures prescribed in [Section 1](#) and [Section 2 of this Article](#).

Part V. Habeas Corpus

Article 17. Habeas Corpus

An application for a writ of habeas corpus must be made to the appropriate court. If made to a court of appeals judge, the application must be transferred to the appropriate court. If a court denies an application made or transferred to it, renewal of the application before a court of appeals judge is not permitted. The applicant may appeal to the court of appeals from the court's order denying the application.

Article 18. Custody or Release of a Detainee in a Habeas Corpus Proceeding

Section 1

While a decision not to release a detainee is under review, the court or judge rendering the decision, or the court of appeals, or the Supreme Court, or a judge or justice of either court, may order that the detainee be:

- detained appropriately; or
- released on personal recognizance, with or without surety.

Section 2

While a decision ordering the release of a detainee is under review, the detainee must—unless the court or judge rendering the decision, or the court of appeals, or the Supreme Court, or a judge or justice of either court orders otherwise—be released on personal recognizance, with or without surety.

Section 3

An initial order governing the detainee's custody or release, including any recognizance or surety, continues in effect pending review unless for special reasons shown to the court of appeals or the Supreme Court, or to a judge or justice of either court, the order is modified or an independent order regarding custody, release, or surety is issued.

Part VI. General Provisions

Article 19. Computing and Extending Time

Section 1

This article applies in computing any time period specified in this act, or court order, or in any statute that does not specify a method of computing time.

Section 2

When the period is stated in days or a longer unit of time:

- exclude the day of the event that triggers the period;
- count every day; and
- include the last day of the period.

Section 3

When the period is stated in hours:

- begin counting immediately on the occurrence of the event that triggers the period; and
- count every hour.

Article 20. Motions

Section 1

A party applying to the court for an order must do so by motion.

Section 2

A motion must state the grounds on which it is based and the relief or order sought.

Article 21. Citing Judicial Dispositions

A court may not prohibit or restrict the citation of judicial opinions, orders, judgments, or other written dispositions.

Article 22. Appeal Conferences

The court may direct the attorneys—and, when appropriate, the parties—to participate in one or more conferences to address any matter that may aid in disposing of the proceedings, including simplifying the issues and discussing settlement. A judge or other person designated by the court may preside over the conference. Before a settlement conference, the attorneys must consult with their clients and obtain as much authority as feasible to settle the case. The court may, as a result of the conference, enter an order controlling the course of the proceedings or implementing any settlement agreement.

Article 23. En Banc Determination

Section 1

A majority of the court of appeals judges who are in regular active service and who are not disqualified may order that an appeal or other proceeding be heard or reheard by the court of appeals en banc. An en banc hearing or rehearing is not favored and ordinarily will not be ordered unless:

- (a) en banc consideration is necessary to secure or maintain uniformity of the court's decisions; or
- (b) the proceeding involves a question of exceptional importance.

Section 2

A party may petition for a hearing or rehearing en banc.

- (a) The petition must begin with a statement that either:
 - the panel decision conflicts with a decision of the Supreme Court or of the court to which the petition is addressed (with citation to the conflicting case or cases) and consideration by the full court is therefore necessary to secure and maintain uniformity of the court's decisions; or
 - the proceeding involves one or more questions of exceptional importance, each of which must be concisely stated; for example, a petition may assert that a proceeding presents a question of exceptional importance if it involves an issue

on which the panel decision conflicts with the authoritative decisions of other court of appeals that have addressed the issue.

Section 3

A petition that an appeal be heard initially en banc must be filed by the date when the appellee's brief is due. A petition for a rehearing en banc must be filed within the time prescribed by [Article 26](#) for filing a petition for rehearing.

Section 4

A vote need not be taken to determine whether the case will be heard or reheard en banc unless a judge calls for a vote.

Article 24. Entry of Judgment; Notice

Section 1

A judgment is entered when it is noted on the docket. The court must prepare, sign, and enter the judgment:

- after receiving the court's opinion—but if settlement of the judgment's form is required, after final settlement; or
- if a judgment is rendered without an opinion, as the court instructs.

Section 2

On the date when judgment is entered, the court must serve on all parties a copy of the opinion—or the judgment, if no opinion was written—and a notice of the date when the judgment was entered.

Article 25. Frivolous Appeal

If a court of appeals determines that an appeal is frivolous, it may, after a separately filed motion or notice from the court and reasonable opportunity to respond, award just damages and single or double costs to the appellee.

Article 26. Petition for Panel Rehearing

Section 1

Unless the time is shortened or extended by order, a petition for panel rehearing may be filed within 14 days after entry of judgment.

Section 2

The petition must state with particularity each point of law or fact that the petitioner believes the court has overlooked or misapprehended and must argue in support of the petition. Argument is not permitted.

Section 3

Unless the court requests, no response to a petition for panel rehearing is permitted. Ordinarily, rehearing will not be granted in the absence of such a request.

Section 4

If a petition for panel rehearing is granted, the court may do any of the following:

- make a final disposition of the case without reargument;
- restore the case to the calendar for reargument or resubmission; or
- issue any other appropriate order.

Article 27. Voluntary Dismissal

The court of appeals may dismiss the appeal on the filing of a stipulation signed by all parties or on the appellant's motion with notice to all parties.

Article 28. Case Involving a Constitutional Question When the Bayer Free State or any Possession is Not a Party

If a party questions the constitutionality of an Act of Parliament in a proceeding in which the Bayer Free State or its agency, officer, or employee is not a party in an official capacity, the questioning party must give written notice to the court of appeals immediately upon the filing of the record or as soon as the question is raised in the

court of appeals. The court must then certify that fact to an attorney for the Government.

Article 29. Amendment

The Chief Justice may submit any proposed amendment to this act directly to Parliament, and Parliament must proceed on the amendment at the earliest possible opportunity.

In witness whereof, we have approved and set our hands on this document on this second day of the month of April, in the year two thousand and twenty-two, and in the third year of our State.

Parliament

Four handwritten signatures are arranged in a 2x2 grid. The top-left signature is a stylized 'K' with a long horizontal stroke. The top-right signature is a circular, cursive mark. The bottom-left signature is a cursive signature that appears to be 'Judy P'. The bottom-right signature is a cursive signature that appears to be 'Jm'.

Head of State

A handwritten signature in cursive script, appearing to be 'Judy P', is written below the 'Head of State' title.