



LAWS OF ALASKA

1993

Source

HB 181 am

Chapter No.

71

AN ACT

Relating to the state's right to appeal in criminal cases; relating to sentence appeals; amending Rule 202 of the Alaska Rules of Appellate Procedure; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 25, 1993

Actual Effective Date: June 26, 1993

AN ACT

1 Relating to the state's right to appeal in criminal cases; relating to sentence appeals; amending
2 Rule 202 of the Alaska Rules of Appellate Procedure; and providing for an effective date.

3 _____
4 * **Section 1.** The legislature finds that AS 22.07.020, AS 22.10.020, and AS 22.15.240,
5 which give the state a right to appeal in criminal cases, are based on the provisions of 18
6 U.S.C. 3731.

7 * **Sec. 2.** AS 22.07.020(d) is amended to read:

8 (d) An appeal to the court of appeals is a matter of right in all actions and
9 proceedings within its jurisdiction except that

10 (1) the right of appeal to the court of appeals is waived if an appellant
11 chooses to appeal the final decision of the district court to the superior court; and

12 (2) the state's right of appeal in criminal cases is limited by the
13 prohibitions against double jeopardy contained in the United States Constitution

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1 and the Alaska Constitution [STATE HAS NO RIGHT OF APPEAL IN CRIMINAL
2 CASES EXCEPT TO TEST THE SUFFICIENCY OF THE INDICTMENT OR
3 INFORMATION OR TO APPEAL A SENTENCE ON THE GROUND THAT IT IS
4 TOO LENIENT].

5 * Sec. 3. AS 22.10.020(e) is amended to read:

6 (e) An appeal to the superior court is a matter of right, but an appeal from a
7 subordinate court may not be taken by the defendant in a criminal case after a plea of
8 guilty, except on the ground that the sentence was excessive. The state's right of
9 appeal in criminal cases is limited by the prohibitions against double jeopardy
10 contained in the United States Constitution and the Alaska Constitution [STATE
11 HAS NO RIGHT TO APPEAL IN CRIMINAL CASES, EXCEPT TO TEST THE
12 SUFFICIENCY OF AN INDICTMENT OR INFORMATION OR TO APPEAL A
13 SENTENCE ON THE GROUND IT IS TOO LENIENT].

14 * Sec. 4. AS 22.10.020(f) is amended to read:

15 (f) An appeal to the superior court may be taken on the ground that a sentence
16 of imprisonment of 90 days or more was excessive and the superior court in the
17 exercise of this jurisdiction has the power to reduce the sentence. The state may
18 appeal a sentence on the ground that it is too lenient. When a sentence is appealed
19 [BY THE STATE] on the ground that it is too lenient, the court may not increase the
20 sentence but may express its approval or disapproval of the sentence and its reasons
21 in a written opinion.

22 * Sec. 5. AS 22.15.240(b) is amended to read:

23 (b) The defendant may appeal a judgment of conviction given in the district
24 court in a criminal action to the superior court. When the judgment is given on a plea
25 of guilty, an appeal may not be taken by the defendant except on the ground that a
26 sentence of imprisonment of 90 days or more was excessive. The state's right of
27 appeal in criminal cases is limited by the prohibition against double jeopardy
28 contained in the United States Constitution and the Alaska Constitution. The
29 state may also [STATE HAS NO RIGHT OF APPEAL IN CRIMINAL ACTIONS
30 FOR WHICH JUDGMENT IS GIVEN IN THE DISTRICT COURTS, EXCEPT TO
31 TEST THE SUFFICIENCY OF THE INFORMATION OR TO] appeal a sentence on

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1 the ground that it is too lenient. When a sentence is appealed [BY THE STATE] on
2 the ground that it is too lenient, the court may not increase the sentence but may
3 express its approval or disapproval of the sentence and its reasons in a written opinion.

4 * Sec. 6. Rule 202(c), Alaska Rules of Appellate Procedure, regarding the prosecution's
5 right to appeal in criminal cases, is repealed.

6 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).