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Introduced: 3/11/69  
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

HOUSE BILL NO. 281

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTH LEGISLATURE - FIRST SESSION

A BILL

6 For an Act entitled: "An Act relating to the appellate review of criminal  
7 sentences; and providing for an effective date."

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

9 \* Section 1. AS 22.05.010 is amended to read:

10 Sec. 22.05.010. JURISDICTION. (a) The supreme court has final  
11 appellate jurisdiction in all actions and proceedings. The supreme  
12 court may issue injunctions, writs of review, mandamus, certiorari,  
13 prohibition, habeas corpus, and all other writs necessary or proper to  
14 the complete exercise of its jurisdiction. Each justice may issue a  
15 writ of habeas corpus, upon petition by or on behalf of any person held  
16 in actual custody and may make the writ returnable before the justice  
17 himself or before the supreme court, or before any judge of the superior  
18 court of the state. An appeal to the supreme court is a matter of  
19 right, except that the state shall have no right of appeal in criminal  
20 cases, except to test the sufficiency of the indictment or information  
21 and under (b) of this section.

22 (b) The supreme court has jurisdiction to hear appeals of sentences  
23 of imprisonment lawfully imposed by the superior courts on the grounds  
24 that the sentence is excessive or too lenient and, in the exercise of  
25 this jurisdiction, may modify the sentence as provided by law and by  
26 the constitution of this state. For the purpose of considering appeals  
27 of sentences on these grounds, the supreme court may sit in divisions.

28 \* Sec. 2. AS 22.10.020(a) is amended to read:

29 (a) The superior court is the trial court of general jurisdiction,

1 with original jurisdiction in all civil and criminal matters, including  
2 but not limited to probate and guardianship of minors and incompetents.  
3 The jurisdiction of the superior court extends over the whole of the  
4 state. The superior court and its judges may issue injunctions, writs  
5 of review, mandamus, prohibition, habeas corpus and all other writs  
6 necessary or proper to the complete exercise of its jurisdiction. A  
7 writ of habeas corpus may be made returnable before any judge of the  
8 superior court. The superior court has jurisdiction in all matters  
9 appealed to it from a subordinate court, or administrative agency when  
10 appeal is provided by law. Appeals are a matter of right, but [EXCEPT]  
11 no appeal from a subordinate court may be taken by the defendant in a  
12 criminal case after a plea of guilty, except on the ground that the  
13 sentence was excessive, as further provided by this section. No appeal  
14 may be taken [OR] by the state, except to test the sufficiency of an  
15 indictment or information. An appeal to the superior court may be  
16 taken on the ground that a sentence of imprisonment of 180 days or  
17 more was excessive and the superior court in the exercise of this  
18 jurisdiction has the power to modify the sentence appealed from down-  
19 ward. The hearings on appeal from a final order or judgment of a  
20 subordinate court or administrative agency shall be on the record  
21 unless the superior court, in its discretion, grants a trial de novo,  
22 in whole or in part.

23 \* Sec. 3. AS 22.15.240(b) is amended to read:

24 (b) The defendant may appeal a judgment of conviction given in  
25 the district magistrate court in a criminal action to the superior  
26 court. When [, EXCEPT WHEN] the judgment is given on a plea of guilty,  
27 no appeal may be taken by the defendant except on the ground that a  
28 sentence of imprisonment of 180 days or more was excessive; however,  
29 the supreme court by rule may further provide for review of a judgment

1 given on a plea of guilty. The state has no right of appeal in criminal  
2 actions for which judgment is given in the district magistrate courts,  
3 except to test the sufficiency of the information.

4 \* Sec. 4. AS 12.55 is amended by adding a new section to read:

5       Sec. 12.55.120. APPEAL OF SENTENCE. (a) A sentence of imprison-  
6 ment lawfully imposed by the superior court for a term or for aggregate  
7 terms exceeding one year may be appealed to the supreme court by the  
8 defendant on the ground that the sentence is excessive. By appealing  
9 a sentence under this section, the defendant waives the right to plead  
10 that by a revision of the sentence resulting from the appeal he has  
11 been twice placed in jeopardy for the same offense.

12       (b) A sentence of imprisonment lawfully imposed by the superior  
13 court may be appealed to the supreme court by the state on the ground  
14 that the sentence is too lenient; provided, however, that when a  
15 sentence is appealed by the state and the defendant has not appealed  
16 the sentence, the court is not authorized to increase the sentence but  
17 may express its approval or disapproval of the sentence and its reasons  
18 in a written opinion.

19       (c) A sentence appeal under this section does not confer or en-  
20 large the right to bail pending appeal. When the defendant, in the  
21 prosecution of a regular appeal, urges excessiveness of the sentence as  
22 an additional ground for appeal, the defendant's right to bail pending  
23 appeal is governed by the relevant statutes and the rules of the court.

24 \* Sec. 5. The provisions of this Act are applicable only to sentences  
25 imposed after the effective date of this Act.

26 \* Sec. 6. Sections 1 and 4 of this Act change Supreme Court Rule No. 6  
27 by broadening the right of the state to appeal in criminal cases to include  
28 an appeal taken on the ground that a sentence is too lenient.

29 \* Sec. 7. This Act takes effect January 1, 1970.