

Introduced: 1/25/85
Referred: Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 99

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the state's right to appeal in
7 criminal cases; amending Rule 202 of the Alaska Rules
8 of Appellate Procedure; and providing for an effec-
9 tive date."

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

11 * Section 1. AS 22.07.020(b) is amended to read:

12 (b) The court of appeals has jurisdiction to hear appeals of
13 sentences of imprisonment imposed by the superior or district court on
14 the grounds that the sentence is excessive or too lenient and, in the
15 exercise of this jurisdiction, may modify the sentence as provided by
16 law and the state constitution.

17 * Sec. 2. AS 22.07.020(c) is amended to read:

18 (c) The court of appeals has jurisdiction to review [(1)] a
19 final decision of the district court in an action or proceeding in-
20 volving criminal prosecution, post-conviction relief, extradition,
21 probation and parole, habeas corpus or bail[; AND (2) THE FINAL DECI-
22 SION OF THE DISTRICT COURT ON A SENTENCE IMPOSED BY IT]. In this
23 subsection "final decision" means a decision or order, other than
24 dismissal by consent of all parties, that closes a matter in the
25 district court.

26 * Sec. 3. AS 22.07.020(d) is amended to read:

27 (d) An appeal to the court of appeals is a matter of right in
28 all actions and proceedings within its jurisdiction except that (1)
29 the right of appeal to the court of appeals is waived if an appellant

1 chooses to appeal the final decision of the district court to the
2 superior court; and (2) the state's right of appeal in criminal cases
3 is limited by the prohibition against double jeopardy contained in the
4 United States Constitution and the Alaska Constitution [STATE HAS NO
5 RIGHT OF APPEAL IN CRIMINAL CASES EXCEPT TO TEST THE SUFFICIENCY OF
6 THE INDICTMENT OR INFORMATION OR TO APPEAL A SENTENCE ON THE GROUND
7 THAT IT IS TOO LENIENT].

8 * Sec. 4. AS 22.10.020(e) is amended to read:

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

18 * Sec. 5. AS 22.10.020(f) is amended to read:

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

27 * Sec. 6. AS 22.15.240(b) is amended to read:

28 (b) The defendant may appeal a judgment of conviction given in
29 the district court in a criminal action to the superior court. When

1 the judgment is given on a plea of guilty, no appeal may be taken by
2 the defendant except on the ground that a sentence of imprisonment of
3 90 days or more was excessive. The state's right of appeal in crimi-
4 nal cases is limited by the prohibition against double jeopardy con-
5 tained in the United States Constitution and the Alaska Constitution.
6 The state may [STATE HAS NO RIGHT OF APPEAL IN CRIMINAL ACTIONS FOR
7 WHICH JUDGMENT IS GIVEN IN THE DISTRICT COURTS, EXCEPT TO TEST THE
8 SUFFICIENCY OF THE INFORMATION OR TO] appeal a sentence on the ground
9 that it is too lenient. When a sentence is appealed [BY THE STATE] on
10 the ground that it is too lenient, the court may not increase the
11 sentence but may express its approval or disapproval of the sentence
12 and its reasons in a written opinion.

13 * Sec. 7. Rule 202(c), Alaska Rules of Appellate Procedure, regarding
14 the prosecution's right to appeal in criminal cases, is repealed.

15 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
16 10.070(c).