

**HOUSE BILL NO. 303**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**SEVENTEENTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Introduced: 4/26/91**

**Referred: Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the state's right to appeal in criminal cases; relating to sentence  
2 appeals from sentences imposed by the district court; amending Rule 202 of the Alaska  
3 Rules of Appellate Procedure; and providing for an effective date."

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

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

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

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

11 (c) The court of appeals has jurisdiction to review [(1)] a final decision of the district  
12 court in an action or proceeding involving criminal prosecution, post-conviction relief, extradition,  
13 probation and parole, habeas corpus, or bail [; AND (2) THE FINAL DECISION OF THE  
14 DISTRICT COURT ON A SENTENCE IMPOSED BY IT]. In this subsection, "final decision"

1 means a decision or order, other than dismissal by consent of all parties, that closes a matter in  
2 the district court.

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

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

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

8 (2) the state's right of appeal in criminal cases is limited by the prohibitions  
9 against double jeopardy contained in the United States Constitution and the Alaska  
10 Constitution [STATE HAS NO RIGHT OF APPEAL IN CRIMINAL CASES EXCEPT TO  
11 TEST THE SUFFICIENCY OF THE INDICTMENT OR INFORMATION OR TO APPEAL A  
12 SENTENCE ON THE GROUND THAT IT IS TOO LENIENT].

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

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

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

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

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

29 (b) The defendant may appeal a judgment of conviction given in the district court in a  
30 criminal action to the superior court. When the judgment is given on a plea of guilty, an appeal  
31 may not be taken by the defendant except on the ground that a sentence of imprisonment of 90

1 days or more was excessive. The state's right of appeal in criminal cases is limited by the  
2 prohibition against double jeopardy contained in the United States Constitution and the  
3 Alaska Constitution. The state may also [STATE HAS NO RIGHT OF APPEAL IN  
4 CRIMINAL ACTIONS FOR WHICH JUDGMENT IS GIVEN IN THE DISTRICT COURTS,  
5 EXCEPT TO TEST THE SUFFICIENCY OF THE INFORMATION OR TO] appeal a sentence  
6 on the ground that it is too lenient. When a sentence is appealed [BY THE STATE] on the  
7 ground that it is too lenient, the court may not increase the sentence but may express its approval  
8 or disapproval of the sentence and its reasons in a written opinion.

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

11 \* Sec. 8. This Act takes effect immediately under AS 01.10.070(c).