

HOUSE BILL NO. 181 am  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Amended: 3/26/93  
Introduced: 2/25/93  
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  
2 sentence appeals; amending Rule 202 of the Alaska Rules of Appellate Procedure;  
3 and providing for an effective date."

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

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

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

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

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

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

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

- 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).