

## CHAPTER 305

### APPEALS

#### §2111. Appeals from the District Court

**1. Appeal of judgment of conviction or order to the Law Court.** Except as otherwise specifically provided, in any criminal proceeding in the District Court, a defendant aggrieved by a judgment of conviction, ruling or order may appeal to the Supreme Judicial Court sitting as the Law Court.

[PL 2001, c. 471, Pt. D, §16 (AMD).]

**2. Appeal to the Superior Court.** If an appeal from the District Court must be taken to the Superior Court, the appeal must be to the Superior Court in the county where the offense on which the judgment of conviction or order was rendered is alleged to have been committed. Venue may be transferred at the discretion of the Chief Justice of the Superior Court.

[PL 1999, c. 731, Pt. ZZZ, §15 (NEW); PL 1999, c. 731, Pt. ZZZ, §42 (AFF).]

**3. Time for taking of appeal.** The Supreme Judicial Court shall provide by rule the time for taking the appeal and the manner and any conditions for the taking of the appeal.

[PL 1999, c. 731, Pt. ZZZ, §15 (NEW); PL 1999, c. 731, Pt. ZZZ, §42 (AFF).]

#### SECTION HISTORY

PL 1965, c. 356, §59 (RPR). PL 1969, c. 501, §2 (AMD). PL 1981, c. 647, §4 (AMD). PL 1987, c. 166, §1 (RPR). PL 1999, c. 731, §ZZZ15 (RPR). PL 1999, c. 731, §ZZZ42 (AFF). PL 2001, c. 471, §D16 (AMD).

#### §2112. Failure to prosecute appeal

**(REPEALED)**

#### SECTION HISTORY

PL 1965, c. 356, §60 (AMD). PL 1987, c. 166, §2 (RP).

#### §2113. Withdrawal of appeal; fees of jailer

**(REPEALED)**

#### SECTION HISTORY

PL 1965, c. 356, §61 (RP).

#### §2114. Defendant may make election of trial

In all Class D and E criminal proceedings, the defendant may waive the defendant's right to jury trial and elect to be tried in the District Court, as provided by rule of the Supreme Judicial Court. [PL 1999, c. 731, Pt. ZZZ, §16 (AMD); PL 1999, c. 731, Pt. ZZZ, §42 (AFF).]

#### SECTION HISTORY

PL 1965, c. 356, §62 (AMD). PL 1973, c. 520 (RPR). PL 1975, c. 139 (RPR). PL 1979, c. 663, §109 (AMD). PL 1981, c. 487, §1 (RPR). PL 1999, c. 731, §ZZZ16 (AMD). PL 1999, c. 731, §ZZZ42 (AFF).

#### §2115. Appeals from the Superior Court

In any criminal proceeding in the Superior Court, any defendant aggrieved by a judgment of conviction, ruling or order may appeal to the Supreme Judicial Court sitting as the Law Court. The Supreme Judicial Court shall provide by rule the time for taking the appeal and the manner and any

conditions for the taking of the appeal. [PL 1999, c. 731, Pt. ZZZ, §17 (AMD); PL 1999, c. 731, Pt. ZZZ, §42 (AFF).]

#### SECTION HISTORY

PL 1965, c. 356, §63 (RPR). PL 1987, c. 166, §3 (AMD). PL 1999, c. 731, §ZZZ17 (AMD). PL 1999, c. 731, §ZZZ42 (AFF). PL 2007, c. 475, §5 (AMD).

#### §2115-A. Appeals by the State

**1. Appeals prior to trial.** An appeal may be taken by the State in criminal cases on questions of law from the District Court and from the Superior Court to the Supreme Judicial Court sitting as the Law Court: From an order of the court prior to trial which suppresses any evidence, including, but not limited to, physical or identification evidence or evidence of a confession or admission; from an order which prevents the prosecution from obtaining evidence; from a pretrial dismissal of an indictment, information or complaint; or from any other order of the court prior to trial which, either under the particular circumstances of the case or generally for the type of order in question, has a reasonable likelihood of causing either serious impairment to or termination of the prosecution. [PL 1999, c. 731, Pt. ZZZ, §18 (AMD); PL 1999, c. 731, Pt. ZZZ, §42 (AFF).]

**2. Appeals after trial.** An appeal may be taken by the State from the Superior Court or the District Court to the Supreme Judicial Court sitting as the Law Court after trial and after a finding of guilty by a jury or the court from the granting of a motion for a new trial, from arrest of judgment, from dismissal or from other orders requiring a new trial or resulting in termination of the prosecution in favor of the accused, when an appeal of the order would be permitted by the double jeopardy provisions of the Constitution of the United States and the Constitution of Maine. [PL 1999, c. 731, Pt. ZZZ, §18 (AMD); PL 1999, c. 731, Pt. ZZZ, §42 (AFF).]

**2-A. Appeal from adverse decision of the Superior Court sitting as an appellate court relative to an aggrieved defendant's appeal from the denial of a Rule 35 motion in District Court.** [PL 2015, c. 431, §20 (RP).]

**2-B. Appeal from the denial of a Rule 35 motion.** If a motion for correction or reduction of a sentence brought by the attorney for the State under Rule 35 of the Maine Rules of Unified Criminal Procedure is denied in whole or in part, an appeal may be taken by the State from the adverse order to the Supreme Judicial Court sitting as the Law Court. [PL 2015, c. 431, §21 (AMD).]

**3. When defendant appeals.** When the defendant appeals from a judgment of conviction, it is not necessary for the State to appeal. It may argue that error in the proceedings at trial in fact supports the judgment. The State may also establish that error harmful to it was committed prior to trial or in the trial resulting in the conviction from which the defendant has appealed, which error should be corrected in the event that the Law Court reverses on a claim of error by the defendant and remands the case for a new trial. If the case is so reversed and remanded, the Law Court shall also order correction of the error established by the State. [PL 1999, c. 731, Pt. ZZZ, §21 (AMD); PL 1999, c. 731, Pt. ZZZ, §42 (AFF).]

**4. Time.** The time for taking and the manner and any conditions for the taking of an appeal pursuant to subsection 1, 2 or 2-B are as the Supreme Judicial Court provides by rule, and an appeal taken pursuant to subsection 1 must also be taken before the defendant has been placed in jeopardy. An appeal taken pursuant to this subsection must be diligently prosecuted. [PL 2015, c. 431, §22 (AMD).]

**5. Approval of Attorney General.** In any appeal taken pursuant to subsection 1, 2 or 2-B, the written approval of the Attorney General is required; except that if the attorney for the State filing the notice of appeal states in the notice that the Attorney General has orally stated that the approval will be granted, the written approval may be filed at a later date.

[PL 2015, c. 431, §23 (AMD).]

**6. Liberal construction.** The provisions of this section shall be liberally construed to effectuate its purposes.

[PL 1979, c. 701, §14 (AMD).]

**7. Rules.** The Supreme Judicial Court may provide for implementation of this section by rule.

[PL 1979, c. 343, §2 (NEW).]

**8. Fees and costs.** The Law Court shall allow counsel fees and costs for the defense of appeals under this section, to be paid by the Maine Commission on Public Defense Services under Title 4, section 1801. The compensation paid by the commission may not exceed the rates established by the commission for the payment of counsel providing indigent legal services.

[PL 2023, c. 558, §8 (AMD).]

**9. Appeals to Federal Court; fees and costs.** The Law Court shall allow attorney's fees for court appointed counsel when the State appeals a judgment to any Federal Court or to the United States Supreme Court on certiorari. Any fees allowed pursuant to this subsection must be paid out of the accounts of the Maine Commission on Public Defense Services under Title 4, section 1801. The compensation paid by the commission may not exceed the rates established by the commission for the payment of counsel providing indigent legal services.

[PL 2023, c. 558, §9 (AMD).]

#### SECTION HISTORY

PL 1967, c. 547, §§1,3 (NEW). PL 1971, c. 215 (AMD). PL 1977, c. 510, §3 (AMD). PL 1977, c. 564, §74 (AMD). PL 1979, c. 343, §2 (RPR). PL 1979, c. 541, §B22 (AMD). PL 1979, c. 663, §110 (AMD). PL 1979, c. 701, §14 (AMD). PL 1983, c. 105 (AMD). PL 1987, c. 234, §§1-3 (AMD). PL 1987, c. 461 (AMD). PL 1991, c. 223 (AMD). PL 1995, c. 47, §§1-3 (AMD). PL 1999, c. 731, §§ZZZ18-21 (AMD). PL 1999, c. 731, §ZZZ42 (AFF). PL 2001, c. 17, §4 (AMD). PL 2013, c. 159, §§14,15 (AMD). PL 2015, c. 431, §§20-23 (AMD). PL 2023, c. 558, §§8, 9 (AMD).

#### §2115-B. Appeal by aggrieved contemnor

**1. Summary contempt proceedings involving punitive sanctions.** In a summary contempt proceeding involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, instituted under the Maine Rules of Civil Procedure, Rule 66, before a Judge of the District Court or Probate Court or a Justice of the Superior Court or the Supreme Judicial Court, a contemnor who is aggrieved by an order and imposition of a punitive sanction may appeal to the Supreme Judicial Court sitting as the Law Court, as provided under section 2111 or 2115 and the applicable Maine Rules of Appellate Procedure.

[PL 2007, c. 552, §3 (AMD).]

**2. Plenary contempt proceedings involving punitive sanctions.** In a plenary contempt proceeding involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, instituted under the Maine Rules of Civil Procedure, Rule 66, any contemnor aggrieved by an adjudication and imposition of a punitive sanction may appeal to the Supreme Judicial Court sitting as the Law Court, as provided under section 2111 or 2115 and the applicable Maine Rules of Appellate Procedure.

[PL 2007, c. 552, §3 (AMD).]

#### SECTION HISTORY

PL 1997, c. 317, §B1 (NEW). RR 1999, c. 2, §16 (COR). RR 1999, c. 2, §17 (AFF). PL 1999, c. 731, §ZZZ22 (AMD). PL 1999, c. 731, §ZZZ42 (AFF). PL 2003, c. 17, §3 (AMD). PL 2007, c. 552, §3 (AMD).

**§2116. Court action after federal court has acted**

Whenever a federal court finds that a prisoner in any penal institution in this State has been deprived of any of the rights guaranteed to the prisoner by the United States Constitution before, at or after the prisoner's trial, so that the judgment or sentence or both are erroneous and the court holds the case on its docket pending corrective action by the proper state official, the Attorney General may act as follows. The Attorney General may file a petition in the Superior Court of the county where the prisoner was tried and convicted in term time or with any justice of the court in vacation, setting forth the petition of the prisoner to the federal court and the decision of that court, and the Superior Court of conviction or any justice of the court in vacation shall then recall the judgment and sentence held erroneous and order it stricken from the records of the court and shall set the prisoner down for trial if in term time or bind the prisoner over to the next criminal term in the county if in vacation, after setting the prisoner's bail. If the sentence only is erroneous, the Superior Court of the county of conviction in term time or any justice of the court in vacation, on presentation of the Attorney General's petition, shall recall the erroneous sentence and order it stricken from the records and shall, in term time or in vacation, sentence the prisoner anew in accordance with the indictment against the prisoner. [RR 2023, c. 2, Pt. D, §77 (COR).]

**SECTION HISTORY**

RR 2023, c. 2, Pt. D, §77 (COR).

**§2117. Objections in criminal cases**

For all purposes for which an exception has heretofore been necessary in criminal cases, it is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action that the party desires the court to take or the party's objection to the action of the court and the party's grounds for that desired action or objection. If a party does not have an opportunity to object to a ruling or order, the absence of an objection does not thereafter prejudice the party. [RR 2023, c. 2, Pt. D, §78 (COR).]

**SECTION HISTORY**

PL 1965, c. 356, §64 (RPR). RR 2023, c. 2, Pt. D, §78 (COR).

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