§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 Indigent Legal 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 2013, c. 159, §14 (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 Indigent Legal 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 2013, c. 159, §15 (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).

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