

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1257

S.P. 406

In Senate, April 14, 1987

Reference to the Committee on Judiciary suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate
Presented by Senator BRANNIGAN of Cumberland.
Cosponsored by Representative PARADIS of Augusta,
Representative CONLEY of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Modify Certain Criminal Appeal
Laws.

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4 Be it enacted by the People of the State of Maine as
5 follows:

6 Sec. 1. 15 MRSA §2111, as amended by PL 1981, c.
7 647, §4, is repealed and the following enacted in its
8 place:

9 §2111. Time to appeal

10 In any criminal proceeding in the District Court,
11 any defendant aggrieved by a judgment of conviction
12 or order may appeal to the Superior Court in the
13 county where the offense, on which the judgment of
14 conviction or order was rendered, is alleged to have
15 been committed. Venue may be transferred by the

1 Chief Justice of the Superior Court at his discre-
2 tion. The time for taking the appeal and the manner
3 and any conditions for the taking of the appeal shall
4 be as the Supreme Judicial Court provides by rule.

5 Sec. 2. 15 MRSA §2112, as amended by PL 1965, c.
6 356, §60, is repealed.

7 Sec. 3. 15 MRSA §2115, first ¶, as repealed and
8 replaced by PL 1965, c. 356, §63, is repealed and the
9 following enacted in its place:

10 In any criminal proceeding in the Superior Court,
11 any defendant aggrieved by a judgment of conviction,
12 ruling or order may appeal to the Supreme Judicial
13 Court, sitting as the Law Court. The time for taking
14 the appeal and the manner and any conditions for the
15 taking of the appeal shall be as the Supreme Judicial
16 Court provides by rule.

17 STATEMENT OF FACT

18 The Maine Revised Statutes, Title 15, sections
19 2111 (as qualified by section 2114) and 2115 consti-
20 tute the legislation providing access by every ag-
21 grieved criminal defendant to appellate review in the
22 context of District Court and Superior Court criminal
23 proceedings, respectively. This bill addresses these
24 2 provisions and is intended to accomplish 3 things.

25 First, to the extent feasible, it conforms the 2
26 provisions as to both form and substance. The form
27 changes are self-evident. However, with respect to
28 substance conformity, one change is of particular mo-
29 ment. Title 15, section 2115 presently provides not
30 only appellate review by a defendant aggrieved by a
31 "judgment," but also by a defendant aggrieved by a
32 "ruling or order." The reference to "ruling" is ap-
33 parently to accommodate present M.R. Crim. P. 37A.
34 The reference to "order" accommodates pretrial ap-
35 peals which are within an exception to the final
36 judgment rule (State v. Flick, 495 A.2d 399 (Me.
37 1985) (appeal from denial of motion to dismiss in-
38 dictment on grounds of double jeopardy)) as well as
39 post-judgment appeals triggered by the denial of var-

1 ious post-conviction motions (M.R. Crim. P. 29 (b),
2 33, 34, 35(a) or (c) and 36). Section 2111 presently
3 provides appellate review by a defendant aggrieved by
4 a "judgment" alone. As modified, Title 15, section
5 2111, additionally allows for appellate review by a
6 defendant aggrieved by an "order." "Ruling" has not
7 been added since there exists no concomitant 37A-type
8 mechanism in the District Court criminal rules.

9 Second, both provisions have been modified to
10 place upon the Supreme Judicial Court, as contem-
11 plated by Title 4, section 9, (1979), the onus of es-
12 tablishing limitations relative to time, manner and
13 conditions for the taking of those appeals.

14 Third, Title 15, section 2111 has been amended to
15 make it clear that the Chief Justice of the Superior
16 Court, at his discretion, may order a change of ven-
17 ue. That discretion is needed for the purpose of
18 sound judicial administration and for the convenience
19 of the parties.

20 Section 2 of this bill repeals Title 15, section
21 2112, a provision useful in the context of a de novo
22 trial procedure for Class D and Class E criminal pro-
23 ceedings, but without relevance to our present single
24 trial procedure.

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