

CRIMINAL PROCEDURE AMENDMENT

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott L Wyatt

Senate Sponsor: David L. Thomas

LONG TITLE

General Description:

This bill amends the Code of Criminal Procedure regarding the scope of appeals that may be made by the prosecution.

Highlighted Provisions:

This bill:

- ▶ allows the prosecution to appeal from a court's pretrial order dismissing a misdemeanor charge on specified grounds, so that the appeal authority is the same as is currently provided regarding felonies.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-18a-1, as last amended by Chapter 106, Laws of Utah 2005

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **77-18a-1** is amended to read:

77-18a-1. Appeals -- When proper.

(1) A defendant may, as a matter of right, appeal from:



- 28 (a) a final judgment of conviction, whether by verdict or plea;
29 (b) an order made after judgment that affects the substantial rights of the defendant;
30 (c) an order adjudicating the defendant's competency to proceed further in a pending
31 prosecution; or
32 (d) an order denying bail, as provided in Subsection 77-20-1(7).
- 33 (2) In addition to any appeal permitted by Subsection (1), a defendant may seek
34 discretionary appellate review of any interlocutory order.
- 35 (3) The prosecution may, as a matter of right, appeal from:
- 36 (a) a final judgment of dismissal, including a dismissal of a felony information
37 following a refusal to bind the defendant over for trial;
38 (b) a pretrial order dismissing a [felony] charge on the ground that the court's
39 suppression of evidence has substantially impaired the prosecution's case;
40 (c) an order granting a motion to withdraw a plea of guilty or no contest;
41 (d) an order arresting judgment or granting a motion for merger;
42 (e) an order terminating the prosecution because of a finding of double jeopardy or
43 denial of a speedy trial;
44 (f) an order holding a statute or any part of it invalid;
45 (g) an order adjudicating the defendant's competency to proceed further in a pending
46 prosecution;
47 (h) an order finding, pursuant to Title 77, Chapter 19, Part 2, Competency for
48 Execution, that an inmate sentenced to death is incompetent to be executed;
49 (i) an order reducing the degree of offense pursuant to Section 76-3-402; or
50 (j) an illegal sentence.
- 51 (4) In addition to any appeal permitted by Subsection (3), the prosecution may seek
52 discretionary appellate review of any interlocutory order entered before jeopardy attaches.

Legislative Review Note

as of 1-25-06 5:30 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel