

AMENDMENTS TO CRIMINAL APPEALS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Julie Fisher

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill allows the prosecution to appeal an order granting a new trial.

Highlighted Provisions:

This bill:

- ▶ allows the prosecution, as a matter of right, to appeal an order granting a new trial.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-18a-1, as last amended by Laws of Utah 2006, Chapter 93

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:

- (a) a final judgment of conviction, whether by verdict or plea;
- (b) an order made after judgment that affects the substantial rights of the defendant;
- (c) an order adjudicating the defendant's competency to proceed further in a pending



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

Legislative Review Note
as of 2-2-09 6:31 AM

Office of Legislative Research and General Counsel

H.B. 209 - Amendments to Criminal Appeals

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
