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**AB-249 Criminal courts: appeals: fees.** (2015-2016)

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**Assembly Bill No. 249**

**CHAPTER 194**

An act to amend Sections 1237 and 1237.1 of, and to add Section 1237.2 to, the Penal Code, relating to appeals.

[ Approved by Governor August 13, 2015. Filed with Secretary of State August 13, 2015. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 249, Obernolte. Criminal courts: appeals: fees.

Existing law allows an appeal to be taken by the defendant from a final judgment of conviction, except that existing law prohibits an appeal by the defendant from a judgment of conviction on the ground of an error in the calculation of presentence custody credits, unless the defendant first presents the claim in the trial court at the time of sentencing, or if the error is not discovered after sentencing, the defendant first makes a motion for correction of the record in the trial court.

This bill would prohibit a defendant from taking an appeal from a judgment of conviction solely on the ground of an error in the imposition or calculation of fines, penalty assessments, surcharges, fees, or costs unless the defendant first presents the claim in the trial court at the time of sentencing, or if the error is not discovered until after sentencing, the defendant first makes a motion for correction in the trial court, which may be made informally in writing. The bill would also allow a motion for correction in the trial court regarding the calculation of presentence custody credits to be made informally in writing. The bill would provide that the trial court retains jurisdiction after a notice of appeal has been filed to correct any error in the calculation of presentence custody credits, or in the imposition or calculation of fines, penalty assessments, surcharges, fees, or costs, upon the defendant's request for correction.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 1237 of the Penal Code is amended to read:

**1237.** An appeal may be taken by the defendant from both of the following:

(a) Except as provided in Sections 1237.1, 1237.2, and 1237.5, from a final judgment of conviction. A sentence, an order granting probation, or the commitment of a defendant for insanity, the indeterminate commitment of a defendant as a mentally disordered sex offender, or the commitment of a defendant for controlled substance addiction shall be deemed to be a final judgment within the meaning of this section. Upon appeal from a final judgment the court may review any order denying a motion for a new trial.

(b) From any order made after judgment, affecting the substantial rights of the party.

**SEC. 2.** Section 1237.1 of the Penal Code is amended to read:

**1237.1.** No appeal shall be taken by the defendant from a judgment of conviction on the ground of an error in the calculation of presentence custody credits, unless the defendant first presents the claim in the trial court at the time of sentencing, or if the error is not discovered until after sentencing, the defendant first makes a motion for correction of the record in the trial court, which may be made informally in writing. The trial court retains jurisdiction after a notice of appeal has been filed to correct any error in the calculation of presentence custody credits upon the defendant's request for correction.

**SEC. 3.** Section 1237.2 is added to the Penal Code, to read:

**1237.2.** An appeal may not be taken by the defendant from a judgment of conviction on the ground of an error in the imposition or calculation of fines, penalty assessments, surcharges, fees, or costs unless the defendant first presents the claim in the trial court at the time of sentencing, or if the error is not discovered until after sentencing, the defendant first makes a motion for correction in the trial court, which may be made informally in writing. The trial court retains jurisdiction after a notice of appeal has been filed to correct any error in the imposition or calculation of fines, penalty assessments, surcharges, fees, or costs upon the defendant's request for correction. This section only applies in cases where the erroneous imposition or calculation of fines, penalty assessments, surcharges, fees, or costs are the sole issue on appeal.