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S.B. 48
133rd General Assembly

Bill Analysis

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Version: As Passed by the Senate

Primary Sponsor: Sen. Eklund

Nicholas A. Keller, Attorney

SUMMARY

- Allows the court to release from custody a person charged with a felony who has not been brought to trial within the amount of time required by statute, without dismissing charges against the person.
- Allows for a time-for-trial motion to be filed within 14 days before an accused charged with a felony must be brought to trial under continuing law.
- Requires charges to be dismissed with prejudice if a person charged with a felony is not brought to trial within 14 days after a time-for-trial motion is filed and served on the prosecuting attorney or, if none is filed, within 14 days after the court determines that the time to be brought to trial under continuing law has passed.

DETAILED ANALYSIS

Timely trial for a charged felon

The bill grants a prosecutor additional time to begin a trial after a charged felon has not been brought to trial in a timely manner required by statute. Under continuing law, the time for beginning a trial of a person charged with a felony is 270 days (a separate provision of continuing law, unaffected by the bill, specifies a time within which a person charged with a felony must be accorded a preliminary hearing). For purposes of computing the 270 days, continuing law provides that each day during which the accused is held in jail in lieu of bail on the pending charge must be counted as three days.¹ Continuing law provides for the extension of the 270-day period for any of nine specified reasons (see below).²

¹ R.C. 2945.71(C) and (E).

² R.C. 2945.72, not in the bill.

Currently, when a charged felon is not brought to trial within 270 days after the person's arrest, as possibly extended for any of the nine specified reasons, the person must be discharged and the discharge is a bar to any further criminal proceedings against the person based on the same conduct. Under the bill, when a charged felon is not brought to trial within 270 days after the person's arrest, as possibly extended for any of the nine specified reasons, the person is eligible for release from detention. The court may release the person from any detention in connection with the charges pending trial and may impose any terms or conditions on the release that the court considers appropriate.

Under the bill, upon motion made at or before the commencement of trial, but no sooner than 14 days before the day the person charged with the felony would become eligible for release from detention under the bill, the person must be brought to trial on the pending charges within 14 days after the motion is filed and served on the prosecuting attorney. If no motion is filed, the accused must be brought to trial within 14 days after the court determines that the 270 day time for trial, as possibly extended for any of the nine specified reasons, has expired. If the accused is not brought to trial within whichever of those 14-day time periods applies, the charges must be dismissed with prejudice. The 14-day period may be extended at the request of the accused or because of the accused's fault or misconduct.³ The bill specifies that the three-for-one counting that applies to the 270 day time for trial, as described above, does not apply for purposes of computing the 14-day extension to commence a trial under the bill.⁴

Reasons for extension of time within which an accused must be brought to trial

Continuing law⁵ specifies that the time within which an accused must be brought to trial may be extended only by any period:

1. During which the accused is unavailable for hearing or trial, by reason of other criminal proceedings, by reason of confinement in another state, or by reason of the pendency of extradition proceedings, provided that the prosecution exercises reasonable diligence to secure the accused's availability;
2. During which the accused is mentally incompetent to stand trial, during which the accused's mental competence to stand trial is being determined, or during which the accused is physically incapable of standing trial;
3. Of delay necessitated by the accused's lack of counsel, provided that the delay is not occasioned by any lack of diligence in providing counsel to an indigent accused upon request as required by law;

³ R.C. 2945.73(C).

⁴ R.C. 2945.71(E).

⁵ R.C. 2945.72, not in the bill.

4. Of delay occasioned by the accused's neglect or improper act;
5. Of delay necessitated by reason of a plea in bar or abatement, motion, proceeding, or action made or instituted by the accused;
6. Of delay necessitated by a removal or change of venue pursuant to law;
7. During which trial is stayed pursuant to an express statutory requirement, or pursuant to an order of another court competent to issue such order;
8. Of a continuance granted on the accused's own motion, and the period of any reasonable continuance granted other than upon the accused's own motion;
9. During which an appeal of a specified, limited nature filed by the state is pending.

HISTORY

Action	Date
Introduced	02-12-19
Reported, S. Judiciary	04-10-19
Passed Senate (31-0)	04-10-19
