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February 20, 2024

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL NO. 325

By: Daniels

An Act relating to criminal prosecutions; amending 22 O.S. 2021, Sections 812.1 and 812.2, which relate to the right to speedy trial; modifying time limits for conducting certain criminal proceedings; updating statutory references; limiting number of continuances on certain grounds; adding permissible grounds for delay of certain proceedings; increasing frequency of certain required review; updating statutory language; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 2021, Section 812.1, is amended to read as follows:

Section 812.1. A. If any person charged with a crime and held in jail solely by reason thereof is not brought to trial within ~~one (1) year after arrest~~ nine (9) months after the person's initial appearance on the charge, the court shall set the case for immediate review as provided in Section ~~2~~ 812.2 of this ~~act~~ title, to determine if the right of the accused to a speedy trial is being protected.

1 B. If any person charged with a felony crime who is held to  
2 answer on an appearance bond is not brought to trial within eighteen  
3 (18) months after ~~arrest~~ initial appearance, the court shall set the  
4 case for immediate review as provided in Section ~~2~~ 812.2 of this  
5 ~~act~~, title to determine if the right of the accused to a speedy  
6 trial is being protected.

7 C. In the event a mistrial is declared or a conviction is  
8 reversed on appeal, the time limitations provided for in this  
9 section shall commence to run from the date the mistrial is declared  
10 or the date of the mandate of the Court of Criminal Appeals.

11 SECTION 2. AMENDATORY 22 O.S. 2021, Section 812.2, is  
12 amended to read as follows:

13 Section 812.2. A. Whenever the court finds that a case should  
14 be reviewed to determine if the right of an accused to a speedy  
15 trial is being protected, the court shall:

16 1. Issue notice to the ~~District Attorney~~ district attorney, the  
17 accused, and the attorney for the accused that the case will be  
18 reviewed by the court at a date and time which is not less than ten  
19 (10) days nor more than twenty (20) days from the date of the  
20 notice. Each party shall have the opportunity to present evidence  
21 or legal authority in support of its position; and

22 2. Take evidence from both parties regarding the  
23 appropriateness of the cause for the delay. At the hearing, the  
24

1 court shall consider whether the delay has occurred for any of the  
2 following reasons:

- 3 a. ~~the delay is the result of~~ due to the application of  
4 the accused or an attorney on behalf of the accused,
- 5 b. ~~the delay is the result of~~ due to the fault of the  
6 accused or the attorney for the accused,
- 7 c. the accused is incompetent to stand trial,
- 8 d. a proceeding to determine the competency of the accused  
9 to stand trial is pending and a determination cannot be  
10 completed within the time limitations fixed for trial,
- 11 e. there is material evidence or a material witness which  
12 is unavailable and that reasonable efforts have been  
13 made to procure such evidence or witness, and there are  
14 reasonable grounds to believe that such evidence or  
15 witness can be obtained and trial commenced within a  
16 reasonable time,
- 17 f. the accused is charged as a codefendant or  
18 coconspirator and the court has determined that the  
19 codefendants or coconspirators must be tried before  
20 separate juries taken from separate jury panels,
- 21 g. the court has other cases pending for trial that are  
22 for persons incarcerated prior to the case in question,  
23 and the court does not have sufficient time to commence  
24 the trial of the case within the time limitation fixed

1           for trial; provided, no more than three continuances of  
2           not more than thirty (30) days may be ordered pursuant  
3           to this subparagraph,

4           h. the court, state, accused, or the attorney for the  
5           accused is incapable of proceeding to trial due to  
6           illness or other reason and it is unreasonable to  
7           reassign the case, ~~and~~

8           i. no court reporter is available for the trial of the  
9           case; provided, if the delay is pursuant to this  
10          subparagraph, a court reporter shall be assigned for  
11          trial within sixty (60) days of the hearing,

12          j. a continuance is granted to allow the prosecution  
13          additional time to prepare in a felony case if the  
14          court enters specific findings that additional time is  
15          justified due to exceptional circumstances, and

16          k. due to other reasonable grounds the court does not have  
17          sufficient time to commence the trial of the case  
18          within the time limit fixed for trial; provided, no  
19          more than one continuance of not more than thirty (30)  
20          days may be ordered pursuant to this subparagraph.

21          B. ~~If, after~~ After hearing all the evidence and the legal  
22 arguments properly submitted, if the court finds by a preponderance  
23 of the evidence ~~that the state is not proceeding with due diligence,~~  
24 that none of the exceptions set out in paragraph 2 of subsection A

1 of this section justify additional delay and the right of the  
2 accused to a speedy trial as provided in this section and Section  
3 812.1 of this title has been violated, the court shall dismiss the  
4 case.

5 C. If a preliminary hearing has been held, the case may be  
6 ~~refiled, unless the applicable statute of limitations has expired,~~  
7 upon a showing of newly discovered evidence which could not have  
8 been discovered prior to trial, unless the applicable statute of  
9 limitations has expired.

10 D. If a preliminary hearing has not been held, the case may be  
11 ~~refiled,~~ upon good cause shown, ~~unless any applicable statute of~~  
12 ~~limitations has expired.~~

13 E. ~~If, after~~ After hearing all the evidence and the legal  
14 arguments properly submitted, if the court finds that the right of  
15 the accused to a speedy trial has not been violated, the court shall  
16 set the case for review ~~in four (4)~~ within three (3) months. If the  
17 case is still pending after the ~~four-month~~ three-month period, the  
18 court shall conduct another review within thirty (30) days. The  
19 ~~four-month~~ review of pending cases every thirty (30) days shall be a  
20 continuing responsibility of the court until final disposition of  
21 the case.

22 SECTION 3. This act shall become effective November 1, 2024.

23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
24 February 20, 2024 - DO PASS AS AMENDED BY CS