

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 325

By: Daniels

AS INTRODUCED

An Act relating to criminal prosecutions; amending 22 O.S. 2021, Sections 812.1 and 812.2, which relate to right to speedy trial; modifying time limits for conducting certain criminal proceedings; updating statutory references; limiting number of continuances on certain grounds; 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 two hundred seventy-two (272) days 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.

B. If any person charged with a ~~felony~~ crime who is held to answer on an appearance bond is not brought to trial within eighteen

1 (18) months after ~~arrest~~ initial appearance, the court shall set the
2 case for immediate review as provided in Section ~~2~~ 812.2 of this
3 ~~act~~, title to determine if the right of the accused to a speedy
4 trial is being protected.

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

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

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

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

20 2. Take evidence from both parties regarding the
21 appropriateness of the cause for the delay. At the hearing, the
22 court shall consider whether the delay has occurred for any of the
23 following reasons:

- 1 a. ~~the delay is the result of~~ due to the application of
2 the accused or an attorney on behalf of the accused,
3 b. ~~the delay is the result of~~ due to the fault of the
4 accused or the attorney for the accused,
5 c. the accused is incompetent to stand trial,
6 d. a proceeding to determine the competency of the accused
7 to stand trial is pending and a determination cannot be
8 completed within the time limitations fixed for trial,
9 e. there is material evidence or a material witness which
10 is unavailable and that reasonable efforts have been
11 made to procure such evidence or witness, and there are
12 reasonable grounds to believe that such evidence or
13 witness can be obtained and trial commenced within a
14 reasonable time,
15 f. the accused is charged as a codefendant or
16 coconspirator and the court has determined that the
17 codefendants or coconspirators must be tried before
18 separate juries taken from separate jury panels,
19 g. the court has other cases pending for trial that are
20 for persons incarcerated prior to the case in question,
21 and the court does not have sufficient time to commence
22 the trial of the case within the time limitation fixed
23 for trial; provided, no more than three continuances of
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1 not more than thirty (30) days may be ordered pursuant
2 to this subparagraph,

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

7 i. due to other reasonable grounds the court does not have
8 sufficient time to commence the trial of the case
9 within the time limit fixed for trial; provided, no
10 more than three continuances of not more than thirty
11 (30) days may be ordered pursuant to this subparagraph.

12 B. ~~If, after~~ After hearing all the evidence and the legal
13 arguments properly submitted, if the court finds by a preponderance
14 of the evidence that the state is not proceeding with due diligence,
15 that none of the exceptions set out in ~~paragraph 2 of subsection A~~
16 ~~of~~ this section justify additional delay and the right of the
17 accused to a speedy trial has been violated, the court shall dismiss
18 the case.

19 C. If a preliminary hearing has been held, the case may be
20 ~~refiled, unless the applicable statute of limitations has expired,~~
21 upon a showing of newly discovered evidence which could not have
22 been discovered prior to trial, unless the applicable statute of
23 limitations has expired.

1 D. If a preliminary hearing has not been held, the case may be
2 refiled, upon good cause shown, unless any applicable statute of
3 limitations has expired.

4 E. ~~If, after~~ After hearing all the evidence and the legal
5 arguments properly submitted, if the court finds that the right of
6 the accused to a speedy trial has not been violated, the court shall
7 set the case for review ~~in four (4)~~ within three (3) months. If the
8 case is still pending after the ~~four-month~~ three-month period, the
9 court shall conduct another review within thirty (30) days. The
10 ~~four-month~~ review of pending cases every thirty (30) days shall be a
11 continuing responsibility of the court until final disposition of
12 the case.

13 SECTION 3. This act shall become effective November 1, 2023.

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