

1 **SENATE FLOOR VERSION**

2 February 20, 2024

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 325

6 By: Daniels

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

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

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

19 Section 812.1. A. If any person charged with a crime and held
20 in jail solely by reason thereof is not brought to trial within ~~one~~
21 ~~(1) year after arrest~~ nine (9) months after the person's initial
22 appearance on the charge, the court shall set the case for immediate
23 review as provided in Section ~~2~~ 812.2 of this ~~act~~ title, to
24 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