

(1ST EXTRAORDINARY SESSION)
ENROLLED HOUSE
BILL NO. 1011

By: Davis of the House

and

Smith of the Senate

An Act relating to criminal procedure; providing for review by court of certain criminal cases; providing time limits; providing duties of a court when determining if an accused's right to a speedy trial is being protected; providing notice and review dates; requiring the taking of evidence; providing for consideration of reasons for delay; providing for dismissal of case; allowing case to be refiled under certain circumstances; providing for continuing review after determination that accused's right to a speedy trial has been violated; repealing 22 O.S. 1991, Sections 811, 812 and 813, which relate to dismissals of prosecution and continuances; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 812.1 of Title 22, unless there is created a duplication in numbering, reads as follows:

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

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 812.2 of Title 22, unless there is created a duplication in numbering, reads as follows:

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

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

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

- a. the delay is the result of the application of the accused or an attorney on behalf of the accused,
- b. the delay is the result of the fault of the accused or the attorney for the accused,
- c. the accused is incompetent to stand trial,
- d. a proceeding to determine the competency of the accused to stand trial is pending and a determination cannot be completed within the time limitations fixed for trial,
- e. there is material evidence or a material witness which is unavailable and that reasonable efforts have been made to procure such evidence or witness, and there are reasonable grounds to believe that such evidence or witness can be obtained and trial commenced within a reasonable time,
- f. the accused is charged as a codefendant or coconspirator and the court has determined that the codefendants or coconspirators must be tried before separate juries taken from separate jury panels,
- g. the court has other cases pending for trial that are for persons incarcerated prior to the case in question, and the court does not have sufficient time to commence the trial of the case within the time limitation fixed for trial,
- h. the court, state, accused, or the attorney for the accused is incapable of proceeding to trial due to illness or other reason and it is unreasonable to reassign the case, and
- i. due to other reasonable grounds the court does not have sufficient time to commence the trial of the case within the time limit fixed for trial.

B. If, after hearing all the evidence and the legal arguments properly submitted, the court finds by a preponderance of the evidence that the state is not proceeding with due diligence, that none of the exceptions set out in paragraph 2 of subsection A of this section justify additional delay and the right of the accused

to a speedy trial has been violated, the court shall dismiss the case.

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

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

E. If, after hearing all the evidence and the legal arguments properly submitted, the court finds that the right of the accused to a speedy trial has not been violated, the court shall set the case for review in four (4) months. If the case is still pending after the four-month period, the court shall conduct another review. The four-month review of pending cases shall be a continuing responsibility of the court until final disposition of the case.

SECTION 3. REPEALER 22 O.S. 1991, Sections 811, 812 and 813, are hereby repealed.

SECTION 4. This act shall become effective November 1, 1999.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 30th day of June, 1999.

Speaker of the House of
Representatives

Passed the Senate the 30th day of June, 1999.

President of the Senate