STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1343 By: Davis and Toure

COMMITTEE SUBSTITUTE

An Act relating to criminal procedure; providing time limitations for commencement of criminal trials; providing extensions for specified reasons; amending 22 O.S. 1991, Sections 813 and 817, which relate to continuances and dismissals of actions; modifying time for continuance; modifying scope of authority to prosecute for an offense after dismissal; repealing 22 O.S. 1991, Sections 811 and 812, which relate to dismissals of prosecution; providing for codification; and providing an effective date.

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 such person's arrest on the charge, such charge shall be dismissed, unless the delay is the result of the application or fault of the defendant, or a continuance is ordered by the court pursuant to subsection C of this section; provided, however, the charge may be refiled unless any applicable statute of limitations has expired.

B. If any person charged with a crime and held to answer on an appearance bond is not brought to trial within one and one-half (1 1/2) years after arrest on the charge, such charge shall be dismissed, unless the delay is the result of the application or fault of the defendant, or a continuance ordered by the court; provided, however, the charge may be refiled unless any applicable statute of limitations has expired.

C. The time for trial may be extended beyond the limitations of subsections A and B of this section for any of the following reasons:

1. The defendant is incompetent to stand trial;

2. A proceeding to determine the defendant's competency to stand trial is pending and a determination thereof cannot be completed within the time limitations fixed for trial by this section;

3. There is material evidence or a material witness which is unavailable; that reasonable efforts have been made to procure such evidence or witness; and that there are reasonable grounds to believe that such evidence or witness can be obtained and trial commenced within the next succeeding ninety (90) days. Not more than one continuance may be granted the state on this ground, unless for good cause shown, and if the original continuance authorized by this paragraph was for less than ninety (90) days, and the trial is commenced within one hundred twenty (120) days from the original trial date; and

4. Because of other cases pending for trial, the court does not have sufficient time to commence the trial of the case within the time fixed for trial by this section. Not more than one continuance of not more than thirty (30) days may be ordered pursuant to this paragraph.

D. In the event a mistrial is declared or a conviction is reversed on appeal to the Court of Criminal Appeals, 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. AMENDATORY 22 O.S. 1991, Section 813, is amended to read as follows:

Section 813. If the defendant is not prosecuted or tried, as provided in ~~the last two sections~~ Section 1 of this act, and

sufficient reason therefor is shown, the court may order the action to be continued ~~from term to term~~ as provided in Section 1 of this act, and in the meantime may discharge the defendant from custody, on his own undertaking or on the undertaking of bail for his appearance to answer the charge at the time to which the action is continued.

SECTION 3. AMENDATORY 22 O.S. 1991, Section 817, is amended to read as follows:

Section 817. An order for the dismissal of the action, as provided in this article, is not a bar to any other prosecution for the same offense, except as provided in Section 1 of this act.

SECTION 4. REPEALER 22 O.S. 1991, Sections 811 and 812, are hereby repealed.

SECTION 5. This act shall become effective November 1, 1999.

47-1-6346 LAC 6/11/15