

2021 Regular Session

HOUSE BILL NO. 46

BY REPRESENTATIVES JAMES AND JORDAN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL/JUSTICE: Provides relative to certain pretrial procedures

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 701(B)(1)(a), relative to pretrial  
3 motions for speedy trial; to provide relative to a defendant in continued custody; and  
4 to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 701(B)(1)(a) is hereby amended and  
7 reenacted to read as follows:

8 Art. 701. Right to a speedy trial

9 \* \* \*

10 B. The time period for filing a bill of information or indictment after arrest  
11 shall be as follows:

12 (1)(a) When the defendant is continued in custody subsequent to an arrest,  
13 an indictment or information shall be filed within ~~forty-five~~ thirty days of the arrest  
14 if the defendant is being held for a misdemeanor and within sixty days of the arrest  
15 if the defendant is being held for a felony.

16 Section 2. This Act shall become effective upon signature by the governor or, if not  
17 signed by the governor, upon expiration of the time for bills to become law without signature  
18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
19 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
20 effective on the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 46 Reengrossed

2021 Regular Session

James

**Abstract:** Changes the amount of days that an indictment or bill of information shall be filed if the defendant is being held for a misdemeanor.

Present law provides that the time period for filing a bill of information or indictment after arrest is as follows:

- (1) When the defendant is continued in custody subsequent to an arrest, an indictment or bill of information shall be filed within 45 days of the arrest if the defendant is being held for a misdemeanor and within 60 days of the arrest if the defendant is being held for a felony.
- (2) When the defendant is continued in custody subsequent to an arrest, an indictment shall be filed within 120 days of the arrest if the defendant is being held for a felony for which the punishment may be death or life imprisonment.
- (3) When the defendant is not continued in custody subsequent to arrest, an indictment or information shall be filed within 90 days of the arrest if the defendant is booked with a misdemeanor and 150 days of the arrest if the defendant is booked with a felony.

With regard to a defendant in continued custody subsequent to an arrest, proposed law changes the amount of days within which an indictment or bill of information shall be filed from 45 to 30 if the defendant is being held for a misdemeanor.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends C.Cr.P. Art. 701(B)(1)(a))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Make technical changes to citations.
2. With regard to the appearance for purpose of appointing counsel, change the condition for which the court is required to assign counsel from being based on whether the defendant has the right to being based on whether the defendant is determined to be indigent.
3. Add that the preliminary examination shall be conducted no later than two weeks, exclusive of weekends and holidays, from when the preliminary examination is ordered, unless the defendant waives such timeline or just cause for delay.
4. Provide an exception to releasing the defendant when just cause for failure to institute prosecution is shown after contradictory hearing with the district attorney.

5. Add an effective date of Jan. 1, 2022.

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Remove all of proposed law provisions except with regard to the right to a speedy trial.
2. Make technical changes to the citations and title.
3. Change the amount of days within which an indictment or information shall be filed from 45 to 30 days of the arrest if the defendant is being held for a misdemeanor.
4. Reinstate present law to provide that an indictment or information shall be filed within 60 days of the arrest if the defendant is being held for a felony.
5. Make effective upon signature of governor.