
DIGEST

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HB 120 Original

2020 Regular Session

James

Abstract: Provides relative to the time period within which a bill of information or indictment is filed, the time period for setting an arraignment, the release or reconsideration of the defendant's bail obligation under certain circumstances, and other procedures relative to the right to a speedy trial.

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 information shall be filed within 45 days of the arrest if the defendant is being held for a misdemeanor and within 10 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.

Proposed law amends present law as follows:

- (1) When the defendant is continued in custody subsequent to an arrest, decreases the time period within which an indictment or information shall be filed to within five days of the arrest regardless of whether the defendant is being held for a misdemeanor or for a felony.
- (2) When the defendant is continued in custody subsequent to an arrest for a felony for which the punishment may be death or life imprisonment, decreases the time period within which an indictment shall be filed from within 120 days of arrest to within 30 days of the arrest.
- (3) When the defendant is not continued in custody subsequent to arrest, decreases the time period within which an indictment or information shall be filed to within 14 days of the arrest regardless of whether the defendant is booked with a misdemeanor or felony.
- (4) Adds that when the defendant is not continued in custody subsequent to arrest for a felony for which punishment may be death or life imprisonment, an indictment shall be filed within

60 days of the arrest.

Present law provides that when the defendant is continued in custody subsequent to arrest, failure to institute prosecution as provided in present law shall result in release of the defendant if, after contradictory hearing with the district attorney, just cause for the failure is not shown. If just cause is shown, present law requires the court to reconsider bail for the defendant.

Proposed law amends present law to remove the requirement that a contradictory hearing be held prior to ordering the release of the defendant.

Present law provides that when the defendant is not continued in custody subsequent to arrest, failure to institute prosecution as provided in present law shall result in the release of the bail obligation if, after contradictory hearing with the district attorney, just cause for the delay is not shown.

Proposed law retains present law.

Present law provides that upon filing of a bill of information or indictment, the district attorney shall set the matter for arraignment within 30 days unless just cause for a longer delay is shown.

Proposed law amends present law to provide:

- (1) When the defendant is in custody upon the filing of a bill of information or indictment, the district attorney shall set the matter for arraignment within seven days, exclusive of holidays, unless just cause for a longer delay is shown. If no just cause for the delay is shown, the defendant shall be released.
- (2) When the defendant is not in custody upon the filing of a bill of information or indictment, the district attorney shall set the matter for arraignment within 30 days, exclusive of holidays, unless just cause for a longer delay is shown. If no just cause for the delay is shown, the defendant shall be relieved of his bail obligation.

Present law provides that after a motion for a speedy trial has been filed by the defendant, if the defendant files any subsequent motion which requires a contradictory hearing, the court may suspend or dismiss upon a finding of bad faith the pending speedy trial motion.

Proposed law amends present law to provide that certain preliminary motions which require a contradictory hearing are not grounds for which the court may suspend or dismiss a pending speedy trial motion. Such motions include but are not limited to motions relating to the state's duty to provide the defendant with any evidence constitutionally required to be disclosed pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963) and its progeny, motions relating to previously invoked rights to discovery pursuant to present law, motions in limine regarding the presentation of evidence at trial, motions for jury instructions, and other motions do not necessitate a delay in the commencement of the trial beyond the dates set forth in present law.

Proposed law provides that a defendant's motion for speedy trial does not relieve the state of its

continued burden to comply with the holding in the case *Brady v. Maryland*, 373 U.S. 83 (1963) and its progeny, nor does it relieve the state of its duty to provide previously requested discovery pursuant to present law.

(Amends C.Cr.P. Art. 701(B), (C), and (D)(1)(intro. para.) and (3))