

2018 Regular Session

HOUSE BILL NO. 62

BY REPRESENTATIVE DWIGHT

CRIMINAL/TRIALS: Provides relative to a defendant's motion for a speedy trial and the period of time within which trial is required to commence

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 701(B)(2) and

3 (D)(1)(introductory paragraph) and to enact Code of Criminal Procedure Article

4 701(D)(3), relative to the period of time within which trial is required to commence;

5 to provide relative to the right to a speedy trial; to provide relative to motions filed

6 by the defendant for a speedy trial; to authorize the suspension or the dismissal of a

7 defendant's motion for speedy trial and suspension of the time period for

8 commencement of trial under certain circumstances; and to provide for related

9 matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Code of Criminal Procedure Article 701(B)(2) and (D)(1)(introductory

12 paragraph) are hereby amended and reenacted and Code of Criminal Procedure Article

13 701(D)(3) is hereby enacted to read as follows:

14 Art. 701. Right to a speedy trial

15 \* \* \*

16 B. The time period for filing a bill of information or indictment after arrest

17 shall be as follows:

18 \* \* \*

19 (2)(a) When the defendant is not continued in custody subsequent to arrest,

20 an indictment or information shall be filed within ninety days of the arrest if the

1 defendant is booked with a misdemeanor and one hundred fifty days of the arrest if  
2 the defendant is booked with a felony.

3 (b) Failure to institute prosecution as provided in Subparagraph (1) of this  
4 Paragraph shall result in release of the defendant if, after contradictory hearing with  
5 the district attorney, just cause for the failure is not shown. If just cause is shown,  
6 the court shall reconsider bail for the defendant. Failure to institute prosecution as  
7 provided in ~~Subparagraph (2)~~ this Paragraph shall result in the release of the bail  
8 obligation if, after contradictory hearing with the district attorney, just cause for the  
9 delay is not shown.

10 \* \* \*

11 D.(1) A motion by the defendant for a speedy trial, in order to be valid, must  
12 be accompanied by an affidavit by defendant's counsel certifying that the defendant  
13 and his counsel are prepared to proceed to trial within the delays set forth in this  
14 Article. ~~After~~ Except as provided in Subparagraph (3) of this Paragraph, after the  
15 filing of a motion for a speedy trial by the defendant and his counsel, the time period  
16 for commencement of trial shall be as follows:

17 \* \* \*

18 (3) After a motion for a speedy trial has been filed by the defendant, if the  
19 defendant files any subsequent motion which requires a contradictory hearing, the  
20 court may suspend, in accordance with Article 580, or dismiss the pending speedy  
21 trial motion. In addition, the period of time within which the trial is required to  
22 commence, as set forth by Article 578, may be suspended, in accordance with Article  
23 580, from the time that the subsequent motion is filed by the defendant until the  
24 court rules upon such motion.

25 \* \* \*

## 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)]

HB 62 Engrossed

2018 Regular Session

Dwight

**Abstract:** Authorizes suspension or dismissal of a defendant's motion for a speedy trial and authorizes the suspension of the time period for commencement of trial if the defendant files any motion that requires a contradictory hearing subsequent to the motion for speedy trial.

Present constitution (Art. I, §16 of the La. Const.) provides that the defendant has a right to a speedy trial. In addition, present law (C.Cr.P. Art. 701) provides that the state and the defendant have the right to a speedy trial.

Present law (C.Cr.P. Art. 578) provides that no trial shall be commenced nor any bail obligation be enforceable as follows:

- (1) In capital cases, after three years from the date of institution of the prosecution.
- (2) In other felony cases, after two years from the date of institution of the prosecution.
- (3) In misdemeanor cases, after one year from the date of institution of the prosecution.

Present law (C.Cr.P. Art. 580) provides that when a defendant files a motion to quash or other preliminary plea, these periods of time shall be suspended until the court rules on such motion.

Present law (C.Cr.P. Art. 701) provides that a motion by the defendant for a speedy trial, in order to be valid, must be accompanied by an affidavit by defendant's counsel certifying that the defendant and counsel are prepared to proceed to trial within the following delays set forth by present law:

- (1) The trial of a defendant charged with a felony shall commence within 120 days if he is continued in custody and within 180 days if he is not continued in custody.
- (2) The trial of a defendant charged with a misdemeanor shall commence within 30 days if he is continued in custody and within 60 days if he is not continued in custody.

Proposed 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 the pending speedy trial motion.

Proposed law further provides that the period of time within which the trial is required to commence may be suspended from the time that the subsequent motion is filed by the defendant until the court rules upon such motion.

(Amends C.Cr.P. Art. 701(B)(2) and (D)(1)(intro. para.); Adds C.Cr.P. Art. 701(D)(3))

Summary of Amendments Adopted by House

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

1. 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, authorize, instead of require, the court to suspend or dismiss the pending speedy trial motion.
2. Provide that the period of time within which the trial is required to commence may, instead of shall, be suspended from the time that the subsequent motion is filed by the defendant until the court rules upon such motion.
3. Remove the provision which provided that in no case shall the state have less than one year after the court's ruling on the subsequent motion to commence the trial.