

GREEN SHEET REDIGEST

HB 62

2018 Regular Session

Dwight

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

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.

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DIGEST

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 upon a finding of bad faith 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.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the engrossed bill

1. Add "bad faith" as ground for dismissal of a speedy trial motion under certain circumstances.