

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 62

2018 Regular Session

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

Synopsis of Senate Amendments

1. Provides that the court may suspend, in accordance with present law, or dismiss upon a finding of bad faith a pending speedy trial motion filed by the defendant.

Digest of Bill as Finally Passed by Senate

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 pursuant to present law (C.Cr.P. Art. 578) 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))