

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**S. B. No. 32**

**Senator Eklund**

**Cosponsors: Senators Coley, Hoagland**

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**A BILL**

To amend sections 2945.71 and 2945.73 of the 1  
Revised Code to provide a prosecutor an 2  
additional fourteen days to commence a trial 3  
after a person charged with a felony has been 4  
discharged because the person has not been 5  
brought to trial within the required amount of 6  
time and to authorize the court to release the 7  
person from detention in connection with those 8  
charges pending trial. 9

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2945.71 and 2945.73 of the 10  
Revised Code be amended to read as follows: 11

**Sec. 2945.71.** (A) Subject to division (D) of this section, 12  
a person against whom a charge is pending in a court not of 13  
record, or against whom a charge of minor misdemeanor is pending 14  
in a court of record, shall be brought to trial within thirty 15  
days after the person's arrest or the service of summons. 16

(B) Subject to division (D) of this section, a person 17  
against whom a charge of misdemeanor, other than a minor 18

misdemeanor, is pending in a court of record, shall be brought 19  
to trial as follows: 20

(1) Within forty-five days after the person's arrest or 21  
the service of summons, if the offense charged is a misdemeanor 22  
of the third or fourth degree, or other misdemeanor for which 23  
the maximum penalty is imprisonment for not more than sixty 24  
days; 25

(2) Within ninety days after the person's arrest or the 26  
service of summons, if the offense charged is a misdemeanor of 27  
the first or second degree, or other misdemeanor for which the 28  
maximum penalty is imprisonment for more than sixty days. 29

(C) A person against whom a charge of felony is pending: 30

(1) Notwithstanding any provisions to the contrary in 31  
Criminal Rule 5(B), shall be accorded a preliminary hearing 32  
within fifteen consecutive days after the person's arrest if the 33  
accused is not held in jail in lieu of bail on the pending 34  
charge or within ten consecutive days after the person's arrest 35  
if the accused is held in jail in lieu of bail on the pending 36  
charge; 37

(2) ~~Shall~~Except as provided in division (C) of section 38  
2945.73 of the Revised Code, shall be brought to trial within 39  
two hundred seventy days after the person's arrest. 40

(D) A person against whom one or more charges of different 41  
degrees, whether felonies, misdemeanors, or combinations of 42  
felonies and misdemeanors, all of which arose out of the same 43  
act or transaction, are pending shall be brought to trial on all 44  
of the charges within the time period required for the highest 45  
degree of offense charged, as determined under divisions (A), 46  
(B), and (C) of this section. 47

(E) For purposes of computing time under divisions (A), 48  
(B), (C) (2), and (D) of this section, each day during which the 49  
accused is held in jail in lieu of bail on the pending charge 50  
shall be counted as three days. This division does not apply for 51  
purposes of computing time under division (C) (1) of this 52  
section. 53

(F) This section shall not be construed to modify in any 54  
way section 2941.401 or sections 2963.30 to 2963.35 of the 55  
Revised Code. 56

**Sec. 2945.73.** (A) A charge of felony shall be dismissed if 57  
the accused is not accorded a preliminary hearing within the 58  
time required by sections 2945.71 and 2945.72 of the Revised 59  
Code. Such dismissal has the same effect as a nolle prosequi. 60

(B) (1) Upon motion made at or prior to the commencement of 61  
trial, a person charged with ~~an offense~~ a misdemeanor shall be 62  
discharged if ~~he~~ the person is not brought to trial within the 63  
time required by sections 2945.71 and 2945.72 of the Revised 64  
Code. Such discharge is a bar to any further criminal 65  
proceedings against the person based on the same conduct. 66

~~(C)~~ (2) Regardless of whether a longer time limit may be 67  
provided by sections 2945.71 and 2945.72 of the Revised Code, a 68  
person charged with misdemeanor shall be discharged if ~~he~~ the 69  
person is held in jail in lieu of bond awaiting trial on the 70  
pending charge: 71

~~(1)~~ (a) For a total period equal to the maximum term of 72  
imprisonment which may be imposed for the most serious 73  
misdemeanor charged; 74

~~(2)~~ (b) For a total period equal to the term of 75  
imprisonment allowed in lieu of payment of the maximum fine 76

which may be imposed for the most serious misdemeanor charged, 77  
when the offense or offenses charged constitute minor 78  
misdemeanors. 79

~~(D) When a charge of (3) A discharge under division (B) (2)~~ 80  
~~of this section is a bar to any further criminal proceedings~~ 81  
~~against the person based on the same conduct.~~ 82

~~(C) (1) A person charged with a felony is dismissed~~ 83  
~~pursuant to division (A) of this section, such dismissal has the~~ 84  
~~same effect as a nolle prosequi. When an accused is discharged~~ 85  
~~pursuant to division (B) or (C) of this section, such, who is~~ 86  
~~not brought to trial within the time required by sections~~ 87  
~~2945.71 and 2945.72 of the Revised Code, is eligible for~~ 88  
~~discharge is a bar to any further criminal proceedings against~~ 89  
~~him based on the same conduct. The court may release the person~~ 90  
~~from any detention in connection with the charges pending trial~~ 91  
~~and may impose any terms or conditions on the release that the~~ 92  
~~court considers appropriate.~~ 93

~~(2) Upon motion made at or before the commencement of~~ 94  
~~trial, the charges shall be dismissed with prejudice unless the~~ 95  
~~person is brought to trial on those charges within fourteen days~~ 96  
~~after the motion is served. The fourteen-day period may be~~ 97  
~~extended on account of the fault or misconduct of the accused.~~ 98

**Section 2.** That existing sections 2945.71 and 2945.73 of 99  
the Revised Code are hereby repealed. 100