



Office of the Ohio Public Defender
250 East Broad Street - Suite 1400
Columbus, Ohio 43215

www.opd.ohio.gov

(614) 466-5394

Fax (614) 752-5167

TIMOTHY YOUNG
State Public Defender

Senate Judiciary Committee
SB 32 Opponent Testimony
Office of the Ohio Public Defender
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Chairman Bacon, Vice Chair Dolan and Ranking Member Thomas, thank you for allowing me to testify on Senate Bill 32 today. I appreciate the sponsor bringing this bill to the attention of the Committee, but would urge you all to understand the unnecessary procedural changes the bill seeks to change.

People who are arrested and charged with crimes are granted the constitutional right to a speedy trial. As the sponsor's testimony indicated, people charged with felonies have a right to be brought to trial within 270 days, 90 days if they are held in jail without bond or bail. Theoretically, if the time runs before a person is brought to trial the charge is dismissed. Dismissal for a speedy trial violations is not a mechanism that defendants readily use, or even have available to them.

There are criminal law procedures which allow prosecutors, judges, and defense attorneys to extend the speedy trial timeline. Ohio's Criminal Rules allow continuances to be granted for reasonable amounts of time for various different procedural reasons. Defendants, through their attorneys, can waive time during the continuance and usually do. That means that the delay caused by the continuance tolls the speedy trial day count, at least until the next court date.

We also have a statutory right to speedy trial, with statutory exemptions in R.C. 2945.72. When a defendant claims that his or her speedy trial rights have been violated, they must show that 270 days have passed and no tolling occurred. Upon meeting this burden, the State then has the ability to respond and explain when there should have been tolling in the case. The right to a speedy trial is not ultimate and dismissal is not guaranteed.

The legislature decided that 270 days is an appropriate amount of time to give the State to bring a person to trial, and has carved out several exceptions so that when time is extended or interfered with for reasons beyond the State's control, they get more time in order to serve the interests of justice. Further, Ohio's courts have built in procedural mechanisms to give courts authority to extend the time the State has to prepare for a trial. All of these considerations give credence to the State having to carry the burden of proving a case beyond a reasonable doubt, while protecting the accused, who are presumed innocent through this process, from unnecessary incarceration and delay.

If a prosecutor is having trouble getting their case together, or a judge can't fit the trial on his or her docket in time, we should be asking why that is, not extending the time they have to bring someone to court. There is always the option to dismiss without prejudice at the request of the State, so that the charges may be brought at a later time.

This legislation seems to encourage judges to deny bail, or set it so high that it is constructively denied, and hold people until the very last moment, without encouraging the State to develop their case in a timely manner. People who are held pending their trial phase are likely in on serious cases, with victims who deserve resolution. To extend the case is to defeat the longstanding principals of speedy trial which serve everyone.

In the world of criminal trials, fourteen days is not that long. Extending the State's ability to bring a case by a mere two weeks flies in the face of reasonable explanation of why we need this bill. If the State has had months to get a case together and has not, for reasons that escape explanation by statute or caselaw, why would they be able to pull it together in fourteen days? Further, as a defense attorney, if I received discovery or other trial prep materials from a prosecutor, I would likely ask the judge for a continuance to review and prepare for trial. All of that time comes at the detriment of our clients and people who are presumed innocent.

Finally, you are all aware of the Marsy's Law constitutional amendment which proponents are seeking to add to the ballot this year. One of the provisions in this amendment is a right to a speedy trial for victims. The emphasis on victim centered legislation and the impending constitutional amendment is not in line with this bill.