

As Reported by the Senate Judiciary Committee

132nd General Assembly

Regular Session

2017-2018

Am. S. B. No. 32

Senator Eklund

Cosponsors: Senators Coley, Hoagland, Bacon, O'Brien

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 section 52
or for purposes of computing the fourteen-day period specified 53
in section 2945.73 of the Revised Code. 54

(F) This section shall not be construed to modify in any 55
way section 2941.401 or sections 2963.30 to 2963.35 of the 56
Revised Code. 57

Sec. 2945.73. (A) A charge of felony shall be dismissed if 58
the accused is not accorded a preliminary hearing within the 59
time required by sections 2945.71 and 2945.72 of the Revised 60
Code. Such dismissal has the same effect as a nolle prosequi. 61

(B) (1) Upon motion made at or prior to the commencement of 62
trial, a person charged with ~~an offense~~ a misdemeanor shall be 63
discharged if ~~he~~ the person is not brought to trial within the 64
time required by sections 2945.71 and 2945.72 of the Revised 65
Code. Such discharge is a bar to any further criminal 66
proceedings against the person based on the same conduct. 67

~~(C)~~ (2) Regardless of whether a longer time limit may be 68
provided by sections 2945.71 and 2945.72 of the Revised Code, a 69
person charged with misdemeanor shall be discharged if ~~he~~ the 70
person is held in jail in lieu of bond awaiting trial on the 71
pending charge: 72

~~(1)~~ (a) For a total period equal to the maximum term of 73
imprisonment which may be imposed for the most serious 74
misdemeanor charged; 75

~~(2)~~ (b) For a total period equal to the term of 76

imprisonment allowed in lieu of payment of the maximum fine 77
which may be imposed for the most serious misdemeanor charged, 78
when the offense or offenses charged constitute minor 79
misdemeanors. 80

~~(D) When a charge of (3) A discharge under division (B) (2)~~ 81
~~of this section is a bar to any further criminal proceedings~~ 82
~~against the person based on the same conduct.~~ 83

~~(C) (1) A person charged with a felony is dismissed~~ 84
~~pursuant to division (A) of this section, such dismissal has the~~ 85
~~same effect as a nolle prosequi. When an accused is discharged~~ 86
~~pursuant to division (B) or (C) of this section, such, who is~~ 87
~~not brought to trial within the time required by sections~~ 88
~~2945.71 and 2945.72 of the Revised Code, is eligible for~~ 89
~~discharge is a bar to any further criminal proceedings against~~ 90
~~him based on the same conduct.~~ release from detention. The court 91
may release the person from any detention in connection with the 92
charges pending trial and may impose any terms or conditions on 93
the release that the court considers appropriate. 94

(2) Upon motion made at or before the commencement of 95
trial, but not sooner than fourteen days before the day the 96
person would become eligible for release pursuant to division 97
(C) (1) of this section, the charges shall be dismissed with 98
prejudice unless the person is brought to trial on those charges 99
within fourteen days after the motion is filed and served on the 100
prosecuting attorney. If no motion is filed, the charges shall 101
be dismissed with prejudice unless the person is brought to 102
trial on those charges within fourteen days after it is 103
determined by the court that the time for trial required by 104
sections 2945.71 and 2945.72 of the Revised Code has expired. 105
The fourteen-day period may be extended at the request of the 106

accused or on account of the fault or misconduct of the accused. 107

Section 2. That existing sections 2945.71 and 2945.73 of 108
the Revised Code are hereby repealed. 109