

## MEMORANDUM

Re: S.B. 143 - Expanding Speedy Trial  
To: Senate Government Oversight Committee  
From: Butler County Prosecutor's Office - Lina Alkamaha, Chief, Appellate Division  
Date: 09/30/2015

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The Butler County Prosecutor's Office by and through Lina Alkamaha, Chief, Appellate Division, presents testimony in support of Senate Bill 143 - Expanding Speedy Trial.

### **Decrease Miscarriage of Justice**

The expansion of the speedy trial time limit by fourteen (14) days is necessary to avoid a miscarriage of justice. Releasing an individual accused of committing criminal conduct from culpability due to speedy trial violation is not justice. The criminal justice system demands that an accused and the State have their day in court. This fourteen (14) day expansion will assure this occurs.

### **Difficulty in Calculating Speedy Trial Time**

Pursuant to Ohio Revised Code 2945.71(E), an individual accused of committing a felony who is held in jail in lieu of bail must be brought to trial within 90 days (Triple Time). Otherwise, an accused who posts bail must be brought to trial within 270 days.

The difficulty in calculating speedy trial time arises in cases where bail in some form is granted to an accused. Once bail is granted, it can be posted at anytime and in different forms. See Ohio Revised Code 2937.22. After posting bail, an accused is released from custody and the triple time calculation is terminated. Instead the one-to-one time is reinitiated. **However**, the triple time calculation is again reinstated if the accused violates any term of his bail and bail is forfeited. Granting bail is based on certain conditions that must be followed. Criminal Rule 46(B). An accused forfeits his/her right to bail when he/she violates any of the conditions of bail. In that situation, the court which granted bail can either amend the bail or completely order the forfeiture of bail. Criminal Rule 46(I). **When bail is forfeited, the triple time calculation is reinstated.**

The posting of bail and then forfeiture of bail can result in miscommunication between the clerk and the arresting authority. The confusion of the release of an accused and re-arrest of the accused results in the court's failure to be aware that the triple count is reinstated. That is, any day that the court is not advised that the accused has been arrested pursuant to an order of bail forfeiture is being triple counted pursuant to Ohio Revised Code 2945.71(E).

The requested 14-day expansion pursuant to Senate Bill 143 is required to remedy situations where there is a delay in informing the court that the accused has been returned to jail pursuant to the forfeiture of bail.

### **Limited Application of the 14-day Expansion**

The 14-day expansion only applies in situations where the speedy trial violation has occurred. Once a speedy trial violation has occurred, **the accused is released from confinement.** Senate Bill 143, Ohio Revised Code 2945.73(E). After the discharge of the accused, the State has 14 days to remedy the violation by commencing trial within 14 days.