



Ohio Prosecuting Attorneys Association

Juergen Waldick
Allen County Prosecutor
Senate Bill 48
Proponent Testimony
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Chairman Lang, Vice-Chair Plummer, Ranking Member Leland and members of the House Criminal Justice Committee, thank you for the opportunity to provide proponent testimony on Senate Bill 48. My name is Juergen Waldick. I am the Prosecuting Attorney for Allen County and President-Elect of the Ohio Prosecuting Attorneys Association.

Under current law, the prosecution is required to bring a defendant to trial on a felony charge within 270 days of arrest. Every day that a defendant is held in jail on the same charges pending trial is counted as three days. These calculations can be complicated. The three days for one counts if the person is arrested on a bail violation. It does not count if the person is arrested on new charges. There are also times when the speedy trial time is tolled, if for instance, the defendant requests a continuance, is undergoing a competency evaluation or restoration, or is confined in another state. The Revised Code does not make any one party solely responsible for these calculations. Most courts treat it as if it is a shared responsibility between the prosecutor and the court. Defendants may also waive the right to a speedy trial and often do. Because of this, in the vast majority of cases the speedy trial time presents no problem for either the defendant or the prosecution. Senator Eklund noted during his sponsor testimony that, typically fewer than 100 cases per year statewide are dismissed for speedy trial violations.

The problem that Senate Bill 48 is intended to address is the remedy to the violation in those small number of cases. Ohio is one of only thirteen states that has a dismissal with prejudice rule. In the small number of cases in Ohio per year in which there is a speedy trial violation, the charges are dismissed and cannot be refiled. This is the consequence regardless of the severity of the speedy trial violation, the prejudice to the victim, the prejudice to the defendant, or the seriousness of the charges. The remedy is the same if the person is charged with F5 drug possession as it is if the person is charged with felony domestic violence, a sex offense, or any other number of violent offenses. Other states and the federal government either release the defendant if they are being held, dismiss the case without prejudice, or allow the judge to dismiss the case with or without prejudice after taking into account factors like the severity of the violation and the seriousness of the charges.

Senate Bill 48 strikes what we feel is a reasonable middle ground. The bill requires a court to release a person from custody if that person has not been brought to trial within the required amount of time. It

authorizes the defendant to file a time-for-trial motion on the prosecutor within 14 days before a defendant must be brought to trial. If the defendant is aware that the speedy trial deadline is approaching they can ensure that a timely trial takes place without simply waiting for the deadline to pass and filing a motion to dismiss. The bill provides an incentive to the defendant to notify the prosecution of something that the prosecution may be unaware of. It prevents gamesmanship with our justice system. Alternatively, if they do wait until the deadline has passed and then file a motion to dismiss, the bill grants the prosecution an additional 14 days to bring the case to trial. In either case, if the prosecution fails to bring the case to trial within 14 days of receiving notice, the case will then be dismissed with prejudice.

The problem Senate Bill 48 resolves is not a problem that is due to a lack of preparation by the prosecution. On the contrary, in these small number of cases, the prosecution shows up ready for trial and is faced with a motion to dismiss that the defense was not required to file prior to the speedy trial deadline passing. Ultimately, the bill ensures fairness for the State and prevents an injustice for victims while still protecting the rights of the accused.

Thank you again for the opportunity to provide testimony. We encourage your favorable consideration of the bill. I would be happy to answer any questions.