



# Office of the Ohio Public Defender

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*Timothy Young, State Public Defender*

## **Testimony in Opposition of SB48 Speedy Trial Extension Sponsor Senator Eklund**

Chairman Lang, Vice Chair Plummer, Ranking Member Leland, and members of the Senate Judiciary Committee. My name is Niki Clum, and I'm the Legislative Liaison for the Office of the Ohio Public Defender. Thank you for the opportunity to testify in opposition of SB48.

People who are arrested and charged with crimes have a constitutional right to a speedy trial. As the sponsor's testimony indicated, Ohioans charged with felonies have a right to be brought to trial within 270 days – or 90 days if they are incarcerated pending trial – as each day of incarceration counts for three days pursuant to Revised Code 2945.71. If a defendant is not brought to trial within the 270 day (or 90 day) deadline, they may assert their right to speedy trial has been violated. If a court finds that a defendant has not been brought to trial prior to the speedy trial deadline, the charge is dismissed with prejudice. However, dismissals for a speedy trial violations are extremely rare. When a defendant claims that his or her speedy trial right has been violated, they must show that 270 days (or 90 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.

Few trials, especially for felony cases, actually occur within the speedy trial deadline. This is because statutes and caselaw contain numerous provisions that allow prosecutors, judges, and defense attorneys to extend the speedy trial timeline. As is frequently the case, defendants may waive their right to a speedy trial. Additionally, simply requesting discovery

tolls the speedy trial clock for a period. Prosecutors can toll the speedy trial clock because a key witness is not available for trial. The court can toll speedy trial if the court provides the express reason for the delay in the record. Furthermore, there is always the option for the State to dismiss the case without prejudice so that the charges may be brought at a later time.

Proponents stated in their testimony that sometimes the court does not inform the prosecution that a defendant is incarcerated and receiving three-for-one credit against the speedy trial clock. OPD is happy to work with proponents and this committee to draft legislation that ensures the prosecution is informed of this information in a timely manner. However, extending the State's ability to bring a case by 14 days is not necessary. It is not the experience of OPD that a significant number of cases are being dismissed for speedy trial violations. This is likely because current law contains sufficient provisions for both the State and the defendant regarding how the speedy trial deadline is calculated. It is also important to remember that the State has ample time to develop a case prior to charging a defendant. The statute of limitations for most felonies in Ohio is six years - with more serious felonies having a 20-year limitation, and our most serious offenses having no statute of limitation. The State further enjoys months of preparation time after a defendant has been charged before running afoul of a defendant's right to speedy trial.

Individuals being detained in jail pending trial are presumed innocent. Fourteen days is a long period of time for someone being held away from their family and employment – often times due to a lack of financial ability to pay for bail. To extend the case by another 14 days is to defeat the longstanding principals of speedy trial which serve to protect everyone, including defendants and victims who are waiting for the case to be resolved. The State has considerable power within the criminal justice system, which includes discretion of what charges to file



against a person and when. The State should be held accountable to bring to trial the accused within the timeframes already prescribed by law.

Thank you for the opportunity to testify today before your committee. I am happy to answer questions at this time.

