
HOUSE BILL 2704

State of Washington

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By Representatives Bush, Carrell, Casada, Lantz, Talcott, Kirby, Morell, O'Brien, Schoesler, Ballasiotes, Nixon, Lovick, Mielke, Rockefeller, Boldt, Hunt, Esser, Conway, Woods and Delvin

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1 AN ACT Relating to the right to a speedy trial; and adding a new
2 chapter to Title 10 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature recognizes that the
5 constitution provides an accused in criminal prosecutions the right to
6 a speedy public trial by an impartial jury. The legislature also
7 recognizes that the constitution ensures victims and their families a
8 meaningful role in the criminal justice system and accords them the
9 dignity and respect they are due by granting them certain basic and
10 fundamental rights, including the general right to be informed of and
11 to attend the defendant's trial and all other court proceedings the
12 defendant has the right to attend and to make a statement at the
13 defendant's sentencing and at any proceeding where the defendant's
14 release is considered. To ensure the full administration of justice,
15 the safety of the public, the rights of victims and their families, and
16 the rights of the accused, the legislature intends by this act that a
17 criminal charge may not be dismissed based on the time it takes to come
18 to trial unless the rights of the accused have been prejudiced to such

1 an extent that it has materially affected the accused's right to a fair
2 trial.

3 NEW SECTION. **Sec. 2.** (1) An accused charged with a crime in a
4 court of limited jurisdiction or superior court who pleads not guilty
5 and does not waive his or her right to a speedy trial and:

6 (a) Who is not released from jail pending trial shall be brought to
7 trial not later than sixty days after the date of arraignment; or

8 (b) Who is released from jail at any time prior to trial, whether
9 or not subjected to conditions of release pending trial and whether or
10 not the release is revoked by court order prior to trial, shall be
11 brought to trial not later than ninety days after the date of
12 arraignment.

13 (2) An accused charged with an offense in juvenile court who pleads
14 not guilty and does not waive his or her right to a speedy adjudication
15 and:

16 (a) Who is not released from detention pending adjudication shall
17 be brought to trial not later than thirty days after the date of
18 arraignment; or

19 (b) Who is released from detention at any time prior to
20 adjudication, whether or not subjected to conditions of release pending
21 trial and whether or not the release is revoked by court order prior to
22 adjudication, shall be brought to trial not later than sixty days after
23 the date of arraignment.

24 (3) For purposes of this section, "arraignment" means the actual
25 date on which a plea is entered to the charge.

26 (4)(a) The court shall, no later than fifteen days after the
27 accused's arraignment, set a date for trial or adjudication which is
28 within the time limits prescribed by this section and notify counsel
29 for each party of the date set. If a party is not represented by
30 counsel, the notice shall be given to the party, and may be mailed to
31 the party's last known address. The notice shall set forth the proper
32 date of the accused's arraignment as established at the time of
33 arraignment and the date set for trial or adjudication.

34 (b) A party who objects to the date set by the court for trial or
35 adjudication, or any extension thereof, upon the ground that it is not
36 within the time limits prescribed by this section must, within ten days
37 after the notice is mailed or otherwise given, move that the court set
38 a date for trial or adjudication within those time limits. Such motion

1 shall be promptly noted for hearing by the moving party in accordance
2 with local procedures. Failure of a party for any reason to make such
3 a motion shall be a waiver of the objection that a trial or
4 adjudication commenced on such date, or on an extension of such date
5 properly granted pursuant to this section, is not within the time
6 limits prescribed by this section.

7 (c) A criminal charge not brought to trial or adjudication within
8 the time period as provided for under this section shall result in
9 dismissal with prejudice or discipline of the attorneys or court
10 administrators causing the delay. However, a criminal charge may not
11 be dismissed with prejudice for a violation of this section unless the
12 accused files a timely objection to the date set by the court for trial
13 or adjudication, the accused demonstrates that his or her ability to
14 put forth a defense has been substantially prejudiced by the violation,
15 and the state, through no fault of the accused, fails to bring the
16 matter to trial or adjudication within the next ten judicial days after
17 the hearing on the accused's objection or within the time limits
18 prescribed by this section, whichever is later. The court shall
19 consider the effect of the dismissal on crime victims and their
20 families and on the safety of the community. The court must find that
21 arbitrary action or governmental misconduct has prejudiced the rights
22 of the accused to such an extent that it has materially affected the
23 accused's right to a fair trial or adjudication and that the dismissal
24 is necessary for the furtherance of justice. The court shall fully set
25 forth its reasons in a written order. It shall be sufficient grounds
26 for continuing a trial or adjudication date if the court finds,
27 balancing the interests involved, that a short continuance as
28 determined by the court is necessary for the due administration of
29 justice and a reasonable continuance will not materially affect the
30 accused's rights to a fair trial.

31 (5) The following periods shall be excluded in computing the time
32 for trial or adjudication specified in this section:

33 (a) The time between the filing of the charge and arraignment;

34 (b) All proceedings relating to the competency or capacity of the
35 accused to stand trial or adjudication, terminating when the court
36 enters an order finding the accused to be competent or capable;

37 (c) Preliminary proceedings, trial, adjudication, posttrial
38 motions, and sentencing or disposition on another charge;

1 (d) Continuances granted by the court, on its own motion or on the
2 motion of either party under the following circumstances:

3 (i) If the accused consents to the continuance and good cause is
4 shown; or

5 (ii) If evidence is presently unavailable, and the party making the
6 motion has exercised due diligence, and there are reasonable grounds to
7 believe the evidence will become available within a reasonable time; or

8 (iii) If required in the due administration of justice and the
9 accused will not be substantially prejudiced in the presentation of his
10 or her defense;

11 (e) The time between the dismissal of a charge and the accused's
12 arraignment or rearraignment in court following the refileing of the
13 same charge or charges based upon the same conduct;

14 (f) The time during which an accused is detained in jail, prison,
15 or other detention facility outside the county in which the accused is
16 charged or in a federal jail, prison, or other detention facility and
17 the time during which an accused is subjected to conditions of release
18 not imposed by a court of the state of Washington;

19 (g) The time between a motion for revision of a court
20 commissioner's ruling and the entry of a decision by a judge;

21 (h) All proceedings relating to whether a juvenile court will
22 retain jurisdiction over the charges, ending with the entry of an order
23 retaining juvenile court jurisdiction or arraignment in superior court
24 following entry of an order declining juvenile court jurisdiction.

25 (6) The times for trial or adjudication specified in subsections
26 (1) and (2) of this section shall begin anew following:

27 (a) The court's declaration of a mistrial;

28 (b) The entry of an order granting a new trial or adjudication;

29 (c) An accused's first appearance in court following a remand for
30 trial or adjudication after an appellate court accepts review or stays
31 proceedings;

32 (d) An accused's first appearance in court following the entry of
33 an order for new trial or adjudication by a federal court;

34 (e) The entry of an order allowing the accused to withdraw a guilty
35 plea;

36 (f) An accused's withdrawal of a petition for deferred prosecution;
37 or

1 (g) An accused's first appearance in court on the record following
2 his or her failure to appear for any trial or adjudication or pretrial
3 or preliminary proceeding at which his or her presence is required.

4 (7) If a change of venue is granted to an accused or if the
5 prosecuting attorney or judge becomes disqualified from participating
6 in the case, the accused shall be brought to trial or adjudication as
7 prescribed by this section or not later than sixty days following the
8 entry of the order changing venue or the disqualification, whichever is
9 later.

10 (8) An accused may waive his or her time for trial or adjudication
11 rights. A waiver shall be in writing and shall be signed by the
12 accused. The waiver shall be to a date certain beyond the current
13 expiration date as calculated under this section or for a period of
14 days beyond the current expiration date.

15 (9) To the extent that court rules CrR 3.3, CrRLJ 3.3, and JuCR 7.8
16 on the right to a speedy trial are inconsistent with this section,
17 those rules are superseded by this section.

18 (10) This section applies in all cases where the accused is
19 arraigned on or after the effective date of this act.

20 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act constitute a
21 new chapter in Title 10 RCW.

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