

As Passed by the Senate

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Am. S. B. No. 32

Senator Eklund

**Cosponsors: Senators Coley, Hoagland, Bacon, O'Brien, Dolan, Hackett, Hite,
Huffman, LaRose, Lehner, Oelslager, Terhar, Uecker, Yuko**

A BILL

To amend sections 2945.71 and 2945.73 of the
Revised Code to provide a prosecutor an
additional fourteen days to commence a trial
after a person charged with a felony has been
discharged because the person has not been
brought to trial within the required amount of
time and to authorize the court to release the
person from detention in connection with those
charges pending trial.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2945.71 and 2945.73 of the
Revised Code be amended to read as follows:

Sec. 2945.71. (A) Subject to division (D) of this section,
a person against whom a charge is pending in a court not of
record, or against whom a charge of minor misdemeanor is pending
in a court of record, shall be brought to trial within thirty
days after the person's arrest or the service of summons.

(B) Subject to division (D) of this section, a person

against whom a charge of misdemeanor, other than a minor
misdemeanor, is pending in a court of record, shall be brought
to trial as follows:

(1) Within forty-five days after the person's arrest or
the service of summons, if the offense charged is a misdemeanor
of the third or fourth degree, or other misdemeanor for which
the maximum penalty is imprisonment for not more than sixty
days;

(2) Within ninety days after the person's arrest or the
service of summons, if the offense charged is a misdemeanor of
the first or second degree, or other misdemeanor for which the
maximum penalty is imprisonment for more than sixty days.

(C) A person against whom a charge of felony is pending:

(1) Notwithstanding any provisions to the contrary in
Criminal Rule 5(B), shall be accorded a preliminary hearing
within fifteen consecutive days after the person's arrest if the
accused is not held in jail in lieu of bail on the pending
charge or within ten consecutive days after the person's arrest
if the accused is held in jail in lieu of bail on the pending
charge;

(2) ~~Shall~~ Except as provided in division (C) of section
2945.73 of the Revised Code, shall be brought to trial within
two hundred seventy days after the person's arrest.

(D) A person against whom one or more charges of different
degrees, whether felonies, misdemeanors, or combinations of
felonies and misdemeanors, all of which arose out of the same
act or transaction, are pending shall be brought to trial on all
of the charges within the time period required for the highest
degree of offense charged, as determined under divisions (A),

(B), and (C) of this section.

(E) For purposes of computing time under divisions (A),
(B), (C) (2), and (D) of this section, each day during which the
accused is held in jail in lieu of bail on the pending charge
shall be counted as three days. This division does not apply for
purposes of computing time under division (C) (1) of this section
or for purposes of computing the fourteen-day period specified
in section 2945.73 of the Revised Code.

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

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

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

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

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

~~(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

<u>The fourteen-day period may be extended at the request of the</u>	106
<u>accused or on account of the fault or misconduct of the accused.</u>	107
 Section 2. That existing sections 2945.71 and 2945.73 of	108
the Revised Code are hereby repealed.	109