



Legislative Testimony

Oregon Criminal Defense Lawyers Association

February 13, 2014

The Honorable Floyd Prozanski, Chair
The Honorable Betsy Close, Vice-Chair
Senate Judiciary Committee, Members

RE: Senate Bill 1550 – Dash 8 (Statutory speedy trial)

Dear Chair Prozanski, Vice-Chair Close and Members,

The Oregon Criminal Defense Lawyers Association (OCDLA) is an organization of attorneys who represent juveniles and adults in delinquency, dependency, and criminal prosecutions and appeals throughout the state of Oregon. Thank you for the opportunity to submit the following comments in support of SB 1550 – Dash 8.

1. The Dash 8 Amendment is a consensus amendment between the Department of Justice (DOJ) and OCDLA in structuring a new statutory speedy trial provision for Oregon. It is the product of hundreds of hours of work, done both collaboratively and separately. Each entity analyzed the laws in the other 49 states and federal system, the appellate case law in many of those states, data on the time-to-trial per county in Oregon, data on outstanding-warrants per county in Oregon, and received in-put and feedback from stakeholders in counties throughout the State. It is difficult to identify a topic that has received more thorough analysis than what has gone into the Dash 8 Amendment.

OCDLA wishes to acknowledge and thank DOJ and its Legislative Director Aaron Knott, for their engagement on this issue.

2. Having a statutory speedy trial provision is important because it protects societal and institutional interests beyond those recognized in constitutional guarantees. Constitutional guarantees recognized in the federal and state constitutions are personal to the accused. A statutory right, by contrast, protects the rights of the *public*, including victims and witnesses, to the prompt adjudication of criminal charges, and helps assure that the judicial system will make wise use of its limited resources by ferreting out stale allegations. [ABA Standard on Speedy Trial, Standard 12-1.2]

Forty-eight (48) states have a statutory speedy trial provision. Were the repeal of existing ORS 135.747 to go into effect April 1 with no substitute enacted in this session, Oregon would become the third state with no statutory right.

3. The Dash 8 employs the template recommended by the ABA Standards, and used in the federal system and in most other states. That template is to state a bright-line rule in bringing a case to trial, with clearly defined periods of excluded delay, and a remedy that affords finality but allows relief in exceptional circumstances.

4. Prominent features of the Dash 8 amendment are:

✓ A bright-line timeframe to bring a case to trial that reflects the statute of limitations for most crimes. Section 1 provides that a misdemeanor shall be brought to trial within two years from the date of filing of the charges, and a felony three years from the date of filing of charges.

✓ Exclusions from the timeframe for any delays caused by the accused. If the accused were to be responsible for delays, whether intentionally or not, the bright-line timeframe is tolled during that period. Examples are: delay due to evaluation of the accused for mental competency, the accused failing to appear for a court proceeding, the accused requesting a delay or continuance to prepare his case, etc.

✓ Exclusions from the timeframe for delays caused by appellate proceedings. If the State undertakes an interlocutory appeal for a pretrial ruling of evidence, a dismissal, or if either party seeks mandamus relief, the delay caused by seeking appellate relief tolls the timeframe.

✓ A remedy of “dismissal without prejudice.” A remedy of “dismissal without prejudice” will allow the State to refile charges if there is an extended statute of limitations period for the underlying charges, as there are in sex crime prosecutions and prosecutions for elder abuse.

✓ A remedy allowing a court to continue a case in exceptional circumstances. A court may allow a case to proceed to trial beyond the allowed timeframe if the court finds on the record “substantial and compelling reasons” for doing so.

Thank you for your consideration of these comments. OCDLA urges your support of SB 1550 – Dash 8. Please do not hesitate to contact me if you have any questions.

Respectfully submitted,

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