

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action: Do Pass
Vote: 8 - 0 - 1
Yeas: Barton, Hicks, Krieger, Lininger, Olson, Tomei, Williamson, Barker
Nays: 0
Exc.: Cameron
Prepared By: Bill Taylor, Counsel
Meeting Dates: 2/24, 2/25

WHAT THE MEASURE DOES: Requires that a trial must commence within two years from the date of the filing of the charging instrument if the most serious offense in the instrument is a misdemeanor, and three years if the most serious offense in the charging instrument is a felony. Stipulates that these time limits cease to apply if the defendant fails to appear at trial. Excludes periods when the defendant is: (a) being examined for fitness to proceed; (b) determined to be unfit to proceed; (c) being examined for mental disease or defect or other mental defense raised by the defendant; (d) unable to appear because of illness. Excludes period of time for interlocutory appeal or stays of proceeding by an appellate court in a mandamus or habeas proceeding. Excludes periods of time the defendant has attempted to avoid apprehension or prosecution or the defendant's location cannot be determined by due diligence. Requires court to dismiss the charging instrument without prejudice unless the court finds substantial and compelling reasons to allow the proceeding to continue. Includes "reserve" police officer within the term "police officer".

ISSUES DISCUSSED:

- Orderly administration of court dockets

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Under former ORS 135.747, a defendant is not brought to trial within a reasonable time the charges are dismissed. One of the purposes of this statute was to clear court dockets of criminal matters that had aged-out and probably no longer prosecutable.

If the defendant is charged with a Class A misdemeanor or a felony, the defendant may be re-indicted unless the statute of limitations has run out. A defendant may raise a constitutional claim, pursuant to Article 1, section 10 of the Oregon Constitution, if trial is delayed. However, a constitutional claim is more difficult to maintain. The defendant must show that he or she was prejudiced by the delay. The 2013 session enacted HB 2962, which repeals ORS 135.747 on April 1, 2014. The purpose of this delayed repeal was to give interested parties an opportunity to develop a new statutory framework for bringing defendants to trial in a timely manner.

Reserve officers are not considered police officers for the purposes of the aggravated murder statute (ORS 163.095). This measure would make the provisions of ORS 163.095 applicable to reserve officers.