

A-Engrossed
Senate Bill 1550

Ordered by the Senate February 14
Including Senate Amendments dated February 14

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Modifies crime of invasion of personal privacy. Expands certain definitions related to crime. Elevates crime to Class C felony, punishable by maximum of five years' imprisonment, \$125,000 fine, or both, if victim is under 12 years of age.]

Requires that criminal trials commence within specified time limits. Requires court to dismiss charging instrument without prejudice if trial is not commenced within time limit unless court makes certain findings. Provides that right to trial within time limit is forfeited if defendant fails to appear at trial. Specifies periods of time excluded from time limit. Provides that periods of excluded time apply to codefendants unless court makes certain findings.

Allows state to alternatively prove that victim was reserve officer when element of crime is that victim was police officer in certain circumstances.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to crime; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) Except as provided in section 2 of this 2014 Act:**

5 **(a) A trial in which the most serious charge alleged in the charging instrument is desig-**
6 **nated by statute as a misdemeanor must commence within two years from the date of the**
7 **filing of the charging instrument.**

8 **(b) A trial in which the most serious charge alleged in the charging instrument is desig-**
9 **nated by statute as a felony must commence within three years from the date of the filing**
10 **of the charging instrument.**

11 **(c) A trial in which two or more charges have been consolidated pursuant to ORS 132.560**
12 **must commence within the applicable time period required in this subsection for the most**
13 **serious offense alleged in the charging instrument.**

14 **(d) A joint trial in which two or more defendants are charged in the same charging in-**
15 **strument must commence within the applicable time period required in this subsection for**
16 **the most serious offense alleged in the charging instrument.**

17 **(2) The time limits required in subsection (1) of this section cease to apply to a defendant**
18 **who fails to appear at the date and time scheduled for trial.**

19 **(3) If a trial date is scheduled by the court for a defendant represented by counsel and**
20 **neither the defendant nor the defendant's counsel objects within seven days of the notice of**
21 **the trial date to the fact that the scheduled trial date is not within the time limit required**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 in subsection (1) of this section, the time limit is extended until the scheduled trial date, and
2 may be further extended as provided in section 2 of this 2014 Act.

3 **SECTION 2.** (1) All applicable periods of elapsed time as follows are excluded from the
4 time limits described in section 1 of this 2014 Act:

5 (a) A period of time during which the defendant is:

6 (A) Under observation or examination for fitness to proceed under ORS 161.365, beginning
7 when the issue of the defendant's possible lack of fitness to proceed has been raised by the
8 defendant or the defendant's counsel, until a final determination regarding the defendant's
9 fitness to proceed has been made by the court;

10 (B) Determined to be unfit to proceed by the court pursuant to ORS 161.360 and 161.370;

11 (C) Under observation or examination after notice of the issue of the defendant's mental
12 disease or defect, partial responsibility, diminished capacity, insanity or other mental defense
13 is raised by the defendant or the defendant's counsel, until the trial date; or

14 (D) Unable to appear by reason of illness or physical disability.

15 (b) A period of time following the filing of an interlocutory appeal or an appeal from the
16 dismissal of the charge or charging instrument, or that results from a stay issued by an
17 appellate court in a mandamus or habeas proceeding, until the appellate judgment is issued
18 or the stay is lifted by the appellate court.

19 (c) A period of time between a scheduled court appearance at which the defendant fails
20 to appear and the next scheduled court appearance other than an appearance that occurs for
21 the purpose of addressing a warrant resulting from the defendant's failure to appear.

22 (d) A period of time during which the defendant's location is known but the defendant's
23 presence for trial cannot be obtained, or during which the defendant is outside this state and
24 resists being returned to this state for trial.

25 (e) A period of time during which the defendant's location is unknown and:

26 (A) The defendant has attempted to avoid apprehension or prosecution; or

27 (B) The defendant's location cannot be determined by due diligence.

28 (f) A period of time while the defendant is on trial or engaged in court proceedings in an
29 unrelated matter, whether in the same court or a different court, and was therefore phys-
30 ically unavailable for trial.

31 (g) A period of time between a mistrial on the charging instrument and a subsequent
32 trial on the charging instrument, not to exceed three months for each mistrial. The three-
33 month limit may be extended by the court for good cause upon request from either party or
34 upon the court's own motion.

35 (h) A period of time between a continuance or a rescheduling of a trial date, granted at
36 the request of, or with the consent of, the defendant or the defendant's counsel, and the new
37 trial date. A defendant who is proceeding without counsel may not consent to a continuance
38 or a rescheduling unless the court has advised the defendant of the defendant's right to a
39 speedy trial within the time limit required in section 1 of this 2014 Act and the consequences
40 of the defendant's consent to the continuance or rescheduling.

41 (2) Any period of time excluded pursuant to subsection (1) of this section from the time
42 limits described in section 1 of this 2014 Act that applies to a defendant shall apply to all
43 other defendants charged in the charging instrument. However, if the court finds that it is
44 clearly inappropriate to apply the time exclusion to all of the other defendants, the court
45 may order any relief that justice requires.

1 **SECTION 3.** If a trial is not commenced as required by section 1 of this 2014 Act, the
2 court shall order the charging instrument to be dismissed without prejudice unless the court
3 finds on the record substantial and compelling reasons to allow the proceeding to continue.

4 **SECTION 4.** Sections 1 to 3 of this 2014 Act apply to proceedings in which a motion for
5 dismissal under section 3 of this 2014 Act is filed on or after April 1, 2014.

6 **SECTION 5.** Notwithstanding ORS 163.095, when an element of a crime charged is that
7 the victim of the crime is a police officer as defined in ORS 181.610 and the crime was related
8 to the officer's performance of official duties, the state may alternatively prove that the
9 victim of the crime is a certified reserve officer or a reserve officer, as those terms are de-
10 fined in ORS 181.610, and the crime was related to the officer's performance of official duties.

11 **SECTION 6.** Section 5 of this 2014 Act applies to criminal offenses committed on or after
12 the effective date of this 2014 Act.

13 **SECTION 7.** This 2014 Act being necessary for the immediate preservation of the public
14 peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect
15 on its passage.
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