

Enrolled Senate Bill 1550

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CHAPTER

AN ACT

Relating to crime; and declaring an emergency.

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

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

(a) A trial in which the most serious charge alleged in the charging instrument is designated by statute as a misdemeanor must commence within two years from the date of the filing of the charging instrument.

(b) A trial in which the most serious charge alleged in the charging instrument is designated by statute as a felony must commence within three years from the date of the filing of the charging instrument.

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

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

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

(3) If a trial date is scheduled by the court for a defendant represented by counsel and neither the defendant nor the defendant's counsel objects within seven days of the notice of the trial date to the fact that the scheduled trial date is not within the time limit required in subsection (1) of this section, the time limit is extended until the scheduled trial date, and may be further extended as provided in section 2 of this 2014 Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Passed by Senate February 18, 2014

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House March 3, 2014

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2014

Approved:

.....M,....., 2014

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2014

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Kate Brown, Secretary of State