

**PROPOSED AMENDMENTS TO
SENATE BILL 1550**

1 On page 1 of the printed bill, line 2, delete “amending ORS 163.700;”.

2 Delete lines 4 through 29 and insert:

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

4 **“(a) A trial in which the most serious charge alleged in the charg-**
5 **ing instrument is designated by statute as a misdemeanor must com-**
6 **mence within two years from the date of the filing of the charging**
7 **instrument.**

8 **“(b) A trial in which the most serious charge alleged in the charg-**
9 **ing instrument is designated by statute as a felony must commence**
10 **within three years from the date of the filing of the charging instru-**
11 **ment.**

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

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

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

1 **“(3) If a trial date is scheduled by the court for a defendant re-**
2 **presented by counsel and neither the defendant nor the defendant’s**
3 **counsel objects within seven days of the notice of the trial date to the**
4 **fact that the scheduled trial date is not within the time limit required**
5 **in subsection (1) of this section, the time limit is extended until the**
6 **scheduled trial date, and may be further extended as provided in sec-**
7 **tion 2 of this 2014 Act.**

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

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

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

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

19 **“(C) Under observation or examination after notice of the issue of**
20 **the defendant’s mental disease or defect, partial responsibility, dimin-**
21 **ished capacity, insanity or other mental defense is raised by the de-**
22 **fendant or the defendant’s counsel, until the trial date; or**

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

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

29 **“(c) A period of time between a scheduled court appearance at**
30 **which the defendant fails to appear and the next scheduled court ap-**

1 **pearance other than an appearance that occurs for the purpose of ad-**
2 **ressing a warrant resulting from the defendant's failure to appear.**

3 **“(d) A period of time during which the defendant's location is**
4 **known but the defendant's presence for trial cannot be obtained, or**
5 **during which the defendant is outside this state and resists being re-**
6 **turned to this state for trial.**

7 **“(e) A period of time during which the defendant's location is un-**
8 **known and:**

9 **“(A) The defendant has attempted to avoid apprehension or prose-**
10 **cution; or**

11 **“(B) The defendant's location cannot be determined by due dili-**
12 **gence.**

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

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

21 **“(h) A period of time between a continuance or a rescheduling of**
22 **a trial date, granted at the request of, or with the consent of, the de-**
23 **fendant or the defendant's counsel, and the new trial date. A defend-**
24 **ant who is proceeding without counsel may not consent to a**
25 **continuance or a rescheduling unless the court has advised the de-**
26 **fendant of the defendant's right to a speedy trial within the time limit**
27 **required in section 1 of this 2014 Act and the consequences of the**
28 **defendant's consent to the continuance or rescheduling.**

29 **“(2) Any period of time excluded pursuant to subsection (1) of this**
30 **section from the time limits described in section 1 of this 2014 Act that**

1 applies to a defendant shall apply to all other defendants charged in
2 the charging instrument. However, if the court finds that it is clearly
3 inappropriate to apply the time exclusion to all of the other defend-
4 ants, the court may order any relief that justice requires.

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

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

12 **“SECTION 5.** Notwithstanding ORS 163.095, when an element of a
13 crime charged is that the victim of the crime is a police officer as
14 defined in ORS 181.610 and the crime was related to the officer’s per-
15 formance of official duties, the state may alternatively prove that the
16 victim of the crime is a certified reserve officer or a reserve officer,
17 as those terms are defined in ORS 181.610, and the crime was related
18 to the officer’s performance of official duties.

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

21 On page 2, delete lines 1 through 22.

22 In line 23, delete “2” and insert “7”.

23