

LEGISLATIVE BILL 623

Approved by the Governor March 10, 2008

Introduced by Pirsch, 4; Pedersen, 39.

FOR AN ACT relating to criminal procedure; to amend section 29-1207, Reissue Revised Statutes of Nebraska; to change provisions relating to speedy trial; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 29-1207, Reissue Revised Statutes of Nebraska, is amended to read:

29-1207 (1) Every person indicted or informed against for any offense shall be brought to trial within six months, and such time shall be computed as provided in this section.

(2) Such six-month period shall commence to run from the date the indictment is returned or the information filed, unless the offense is a misdemeanor offense involving intimate partners, as that term is defined in section 28-323, in which case the six-month period shall commence from the date the defendant is arrested on a complaint filed as part of a warrant for arrest. As to indictments or informations or orders for a new trial pending on April 30, 1971, such six-month period shall commence to run from April 30, 1971.

(3) If such a defendant is to be tried again following a mistrial, an order for a new trial, or an appeal or collateral attack, such period shall commence to run from the date of the mistrial, order granting a new trial, or the mandate on remand.

(4) The following periods shall be excluded in computing the time for trial:

(a) The period of delay resulting from other proceedings concerning the defendant, including, but not limited to, an examination and hearing on competency and the period during which he or she is incompetent to stand trial; the time from filing until final disposition of pretrial motions of the defendant, including motions to suppress evidence, motions to quash the indictment or information, demurrers and pleas in abatement, and motions for a change of venue; and the time consumed in the trial of other charges against the defendant;

(b) The period of delay resulting from a continuance granted at the request or with the consent of the defendant or his or her counsel. A defendant without counsel shall not be deemed to have consented to a continuance unless he or she has been advised by the court of his or her right to a speedy trial and the effect of his or her consent;

(c) The period of delay resulting from a continuance granted at the request of the prosecuting attorney, if:

(i) The continuance is granted because of the unavailability of evidence material to the state's case, when the prosecuting attorney has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will be available at the later date; or

(ii) The continuance is granted to allow the prosecuting attorney additional time to prepare the state's case and additional time is justified because of the exceptional circumstances of the case;

(d) The period of delay resulting from the absence or unavailability of the defendant;

(e) A reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and there is good cause for not granting a severance. In all other cases, the defendant shall be granted a severance so that he or she may be tried within the time limits applicable to him or her; and

(f) Other periods of delay not specifically enumerated herein, in this section, but only if the court finds that they are for good cause.

Sec. 2. Original section 29-1207, Reissue Revised Statutes of Nebraska, is repealed.