

CHAPTER 47
HOUSE BILL No. 2312

AN ACT concerning criminal procedure; relating to a prompt trial; amending K.S.A. 22-3402 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 22-3402 is hereby amended to read as follows: 22-3402. (1) If any person charged with a crime and held in jail solely by reason thereof shall not be brought to trial within ~~ninety (90)~~ 90 days after such person's arraignment on the charge, such person shall be entitled to be discharged from further liability to be tried for the crime charged, unless the delay shall happen as a result of the application or fault of the defendant, or a continuance shall be ordered by the court under subsection ~~(3)~~ (5).

(2) If any person charged with a crime and held to answer on an appearance bond shall not be brought to trial within ~~one hundred eighty (180)~~ 180 days after arraignment on the charge, such person shall be entitled to be discharged from further liability to be tried for the crime charged, unless the delay shall happen as a result of the application or fault of the defendant, or a continuance shall be ordered by the court under subsection ~~(3)~~ (5).

(3) *If any trial scheduled within the time limitation prescribed by subsection (1) or (2) is delayed by the application of or at the request of the defendant, the trial shall be rescheduled within 90 days of the original trial deadline.*

(4) *After any trial date has been set within the time limitation prescribed by subsection (1) or (2), if the defendant fails to appear for the trial or any pretrial hearing, and a bench warrant is ordered, the trial shall be rescheduled within 90 days after the defendant has been surrendered on such warrant. However, if the defendant was subject to the 180-day deadline prescribed by subsection (2) and more than 90 days of the original time limitation remain, then the original time limitation remains in effect.*

(5) The time for trial may be extended beyond the limitations of subsections (1) and (2) ~~of this section~~ for any of the following reasons:

(a) The defendant is incompetent to stand trial. *If the defendant is subsequently found to be competent to stand trial, the trial shall be scheduled within 90 days of such finding;*

(b) A proceeding to determine the defendant's competency to stand trial is pending and a determination thereof may not be completed within the time limitations fixed for trial by this section. *If the defendant is subsequently found to be competent to stand trial, the trial shall be scheduled within 90 days of such finding;*

(c) There is material evidence which is unavailable; that reasonable efforts have been made to procure such evidence; and that there are reasonable grounds to believe that such evidence can be obtained and trial commenced within the next succeeding ~~ninety (90)~~ 90 days. Not more than one continuance may be granted the state on this ground, unless for good cause shown, where the original continuance was for less than ~~ninety (90)~~ 90 days, and the trial is commenced within ~~one hundred twenty (120)~~ 120 days from the original trial date;

(d) Because of other cases pending for trial, the court does not have sufficient time to commence the trial of the case within the time fixed for trial by this section. Not more than one continuance of not more than ~~thirty (30)~~ 30 days may be ordered upon this ground.

~~(4)~~ (6) In the event a mistrial is declared or a conviction is reversed on appeal to the supreme court or court of appeals, the time limitations provided for herein shall commence to run from the date the mistrial is declared or the date the mandate of the supreme court or court of appeals is filed in the district court.

Sec. 2. K.S.A. 22-3402 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.