

Lesser Included Crimes of Felony Murder; Speedy Trial; Intimidation of a Witness; Statute of Limitations for Sexually Violent Crimes; Sub. for SB 307

Sub. for SB 307 amends statutes related to lesser included crimes, speedy trial, intimidation of a witness, and the statute of limitations for sexually violent crimes.

Lesser Included Crimes and Felony Murder

The bill amends the statute governing convictions for lesser included crimes to establish there are no lesser degrees of first-degree murder under KSA 2011 Supp. 21-5402(a)(2) (felony murder).

Speedy Trial

The bill makes several amendments to the speedy trial statute in the Kansas Code of Criminal Procedure.

If a trial date is set and the defendant fails to appear for trial or a pretrial hearing, and a bench warrant is issued, the trial deadline of 90 days is computed from the defendant's appearance in court after apprehension or surrender.

If a defendant is the subject of a competency proceeding, is found competent to stand trial, and was subject to the 180-day deadline pursuant to an appearance bond and more than 90 days of the original time limitation remain, then the original time limitation remains in effect. A delay while a decision is pending on competency is counted against the state in the speedy trial computation.

The bill clarifies that, in addition to the existing 90-day deadline for trial after a defendant is found competent, trial is to be scheduled as soon as practicable.

If a motion for a new trial is granted, the speedy trial computation begins on the date a new trial is ordered.

A delay requested by the defendant or by the defendant's attorney after consulting with the defendant is charged against the defendant regardless of the reason for the request, unless there is prosecutorial misconduct related to the delay.

A delay initially charged to the defendant but subsequently charged to the state is not considered against the state in the speedy trial computation, unless this would violate the defendant's constitutional right to a speedy trial or there is prosecutorial misconduct related to such delay. Also, such delay may not be used as a ground for dismissing a case or reversing a conviction.

A delay due to the filing and resolution of a motion, or due to a concern raised by the court, is not included in the speedy trial computation. If resolution occurs less than 30 days before the speedy trial deadline, the deadline is extended 30 days from the date of the court order.

A continuance granted to the state for any reason under the statute is not counted against the state if an appellate court later determines that the district court erred in granting the continuance, unless this would violate the defendant's constitutional right to a speedy trial or there is prosecutorial misconduct related to such delay.

Intimidation of a Witness

The bill amends the crimes of intimidation of a witness and aggravated intimidation of a witness to include preventing or dissuading, or attempting to prevent or dissuade, any witness, victim, or person acting on behalf of a victim from making any report of victimization to the Secretary of the Department for Children and Families (formerly the Department of Social and Rehabilitation Services), any agent or representative of the Secretary, or any mandatory reporter.

Statute of Limitations—Sexually Violent Crimes

The bill amends the statute governing the time within which prosecution for a crime must be commenced to state that when the offense charged is a sexually violent crime, as defined by state law, and the victim was under 18 at the time of the offense, the time would start to run the day after the victim's 18th birthday. Additionally, it clarifies that the prohibition of prosecution after a victim turns 28 would apply only to the subsection in which it appears, rather than to the entire statute.