

SESSION OF 2012

SUPPLEMENTAL NOTE ON SENATE BILL NO. 305

As Amended by Senate Committee on Judiciary

Brief*

SB 305 would make several amendments to the speedy trial statute in the Kansas Code of Criminal Procedure.

A defendant's attorney would be allowed to request a continuance without consulting the defendant or over the defendant's objection. Such continuance would be charged to the defendant regardless of the reason for the continuance.

When a continuance is granted to the defendant or the defendant's attorney, the deadline for trial would be the original trial deadline plus 90 days and the time tolled during the continuance. "Original trial deadline" would be defined as the date of arraignment plus 90 days (if the defendant is held in jail) or 180 days (if the defendant is held on appearance bond), before any tolled time is considered.

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 would be computed from the defendant's appearance in court after apprehension or surrender. Currently, the computation is made from the date of surrender.

A delay while a decision is pending on competency would not be counted against the state in the speedy trial computation.

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

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

A delay initially charged to the defendant, but subsequently charged to the state for any reason, would not be considered against the state in the speedy trial computation. Also, it could 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, would not be included in the speedy trial computation. If resolution occurs less than 30 days before the speedy trial deadline, the deadline would be extended 30 days from the date of the court order.

A continuance granted to the state for any reason under the statute would not be counted against the state if an appellate court later determines that the district court erred in granting the continuance.

Background

SB 305 was introduced by the Senate Judiciary Committee at the request of the Kansas County and District Attorneys Association (KCDAA). In the Senate Judiciary Committee, a representative of the KCDAA spoke in support of the bill. A representative of the Kansas Association of Criminal Defense Lawyers spoke in opposition to the bill. The Committee amended the bill to remove a provision that would have made the bill retroactive. The Committee recommended the bill be passed as amended.

The fiscal note on the bill states that enactment of the bill would have no fiscal effect.