

SENATE BILL No. 392

AN ACT concerning criminal procedure; relating to the uniform mandatory disposition of detainer act; notice; amending K.S.A. 22-4302, 22-4306 and 22-4308 and K.S.A. 2015 Supp. 22-4301, 22-4303 and 22-4304 and repealing the existing sections; also repealing K.S.A. 22-4307.

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

Section 1. K.S.A. 2015 Supp. 22-4301 is hereby amended to read as follows: 22-4301. (a) ~~Any person who is imprisoned in a penal or correctional institution of this state~~ *inmate in the custody of the secretary of corrections* may request final disposition of any untried indictment, information, motion to revoke probation or complaint pending against such person in this state. The request shall be in writing, addressed ~~and delivered~~ to the court in which the indictment, information, motion to revoke probation or complaint is pending ~~and~~, to the county attorney charged with the duty of prosecuting it; ~~and to the secretary of corrections. Such request shall set forth the place of imprisonment.~~

(b) ~~The warden, superintendent or other official having custody of prisoners~~ *secretary* shall promptly inform each ~~prisoner~~ *inmate* in writing of the source and nature of any untried indictment, information, motion to revoke probation or complaint against such ~~prisoner~~ *inmate* of which the ~~warden, superintendent or other official~~ *secretary* has knowledge or notice, and of such ~~prisoner's~~ *inmate's* right to make a request for final disposition thereof.

(c) Failure of the ~~warden, superintendent or other official~~ *secretary* to inform ~~a prisoner~~ *an inmate*, as required by this section, within one year after a detainer has been filed at the institution shall entitle such ~~prisoner~~ *inmate* to a final dismissal of the indictment, information, motion to revoke probation or complaint with prejudice.

Sec. 2. K.S.A. 22-4302 is hereby amended to read as follows: 22-4302. ~~The request shall be delivered to the warden, superintendent or other officials having custody of the prisoner, who shall forthwith~~ *Upon receipt of a request made pursuant to K.S.A. 22-4301, and amendments thereto, the secretary of corrections shall promptly:*

(a) Certify the term of commitment under which the ~~prisoner~~ *inmate* is being held, the time already served on the sentence, the time remaining to be served, the good time earned, the time of parole eligibility of the ~~prisoner~~ *inmate*, and any decisions of the ~~state board of probation and parole~~ *prisoner review board* relating to the ~~prisoner~~ *inmate*;

(b) for crimes committed on or after July 1, 1993, certify the length of time served on the prison portion of the sentence, any good time earned and the projected release date for the commencement of the postrelease supervision term; and

(c) send by registered or certified mail, return receipt requested, one copy of the request and certificate to the court and one copy to the county attorney to whom it is addressed.

Sec. 3. K.S.A. 2015 Supp. 22-4303 is hereby amended to read as follows: 22-4303. ~~Within 180 days after~~ *(a) Detainers shall be disposed of in the order in which they are placed with the secretary of corrections, except in the case of an inmate with detainers from multiple jurisdictions, the district or county attorneys in such jurisdictions may agree to a different order of disposition. The secretary of corrections shall allow transportation of the inmate for the purpose of disposing of detainers.*

(b) (1) ~~Following the receipt of the request and certificate by the court and county attorney from the secretary of corrections, the indictment, information or complaint shall be brought to trial, or the motion to revoke probation shall be brought for a hearing:~~

(A) *If the inmate has one detainer, within 180 days;*

(B) *if the inmate has detainers from multiple jurisdictions, the first detainer shall be brought within 180 days and each subsequent detainer shall be brought within 180 days after return of the inmate to the secretary or transportation of the inmate to the jurisdiction following disposition of a previous detainer; or*

(C) *within such additional time as the court for good cause shown in open court may grant, the prisoner or such prisoner's counsel being present, the indictment, information or complaint shall be brought to trial or the motion to revoke probation shall be brought for a hearing, but*

(2) ~~The parties may stipulate for a continuance or a continuance may be granted on notice to the attorney of record and opportunity for such prisoner to be heard~~ *The requirements of paragraph (1) shall not apply*

to any time during which a continuance or delay has been requested or agreed to by the inmate or the inmate's attorney.

(3) The requirements of paragraph (1) shall not apply to any time during which a motion to determine competency of the inmate is pending or any time during which an inmate is determined to be incompetent to stand trial.

(4) If, after ~~such a request~~ receipt of such certificate, the indictment, information or complaint is not brought to trial within ~~that period~~ the time period specified in this subsection, or the motion to revoke probation is not brought for a hearing within that period, no court of this state shall any longer have jurisdiction thereof, nor shall the untried indictment, information, motion to revoke probation or complaint be of any further force or effect, and the court shall dismiss it with prejudice.

Sec. 4. K.S.A. 2015 Supp. 22-4304 is hereby amended to read as follows: 22-4304. Escape from custody of any ~~prisoner~~ inmate subsequent to such ~~prisoner's inmate's~~ execution of a request for final disposition of an untried indictment, information, motion to revoke probation or complaint voids such request.

Sec. 5. K.S.A. 22-4306 is hereby amended to read as follows: 22-4306. ~~The warden, superintendent or other official having custody of prisoners~~ secretary shall arrange for all ~~prisoners~~ inmates to be informed in writing of the provisions of this article, and for a record thereof to be placed in the ~~prisoner's inmate's~~ file.

Sec. 6. K.S.A. 22-4308 is hereby amended to read as follows: 22-4308. This article may be cited as the ~~uniform~~ mandatory disposition of detainees act.

Sec. 7. K.S.A. 22-4302, 22-4306, 22-4307 and 22-4308 and K.S.A. 2015 Supp. 22-4301, 22-4303 and 22-4304 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.